

Submission following the Electoral Reform Paper Number 2 by Dr. Klaas Woldring

PREFACE

This submission follows the one I made in response to Electoral Reform Green Paper No 1 this year. I regard the issue of electoral reform in Australia of fundamental importance. If it is not dealt with effectively the entire political system will continue to suffer. While I welcome the opportunity to examine the problems and make suggestions the second Green paper reveals biases, which suggest that the Government is in fact not inclined to consider fundamental changes to the system. If it were it would invite questions to change the system rather than engage in piecemeal tinkering. This is clearly not the case. That means to me that the Government is placing its own interest as a major party in the existing system above the national interest. In the Green paper from 5.33 onwards "*Challenges, opportunities and options for change*" are discussed. Options for the House of Representatives focus on two areas, described in 5.40.

The paper then moves to Proportional Representation based on multi-member constituencies, as one option. Some arguments for and against are then discussed and several sources mentioned. It is acknowledged that this debate has been going on since the 19th century. Two other options are then discussed "Full preferential voting" and "First past the post".

Finally, in the section "*Discussion points*" under 5.114 & 5.115 (p. 72) the reader is informed that the Government "is interested in the community's view on what changes, if any, should be made to the current arrangements" and "*In particular, comments are invited on the following questions*", no less than eleven.

None of these deal with the essential problem: the single-member district system, which together with the preferential vote and compulsory voting, is grossly biased in favour of the current two-party system. These eleven questions deal with piecemeal tinkering within the existing framework. That does not surprise me and other PR advocates because the introduction of PR, in whatever form, would increase the number of parties participating in elections and enhance their chances considerably. Almost certainly this would reduce the number of representatives elected for the major parties in the House of Representatives.

Similar points can be made about the Joint Standing Committee on Electoral Matters and its predecessor.

The comments made under 3.11 - 3.14 re. This "bi-partisan" committee "that inquiries regularly into and reports on such matters relating to electoral laws and practices, etc" are misleading. Under 3.13 it says, "JSCEM has become an embedded part of the work of the Commonwealth parliament, and an important part of the Australian electoral reform process". Embedded for sure, and therefore part and parcel of the dominance of the major

parties, thus given to piecemeal tinkering with the existing system and actually reinforcing it. As one who put before that Committee a comprehensive proposal to move to proportional representation (in 2002) I quickly learned that this was indeed a committee dominated by the major parties.

JSCEM is not an Independent body at all and if we are to have electoral reform an Independent body is indeed required, as it was in New Zealand in the mid-1980s - (a Royal Commission) - resulting in a new electoral system: proportional representation.

Perhaps the best part of this very lengthy Green paper is the statement of "Key principles of an electoral system" from 2.10 on page 21 onwards. It is the view of this contributor that the Australian electoral system falls far short of Representation and Responsiveness. Those who argue that the public is satisfied with the current system, and this includes even some political scientists, should ask themselves why it is that the status of politicians is regularly found to be extremely low in Australian society. The ignorance of the Australian public about their political system and constitution - and also about their electoral system, and that of many other countries - should not be taken as satisfaction with the status quo. We need to ask what is the cause or what are the causes of this low status, surely an undesirable situation. One of them is the undemocratic, unrepresentative and unresponsive electoral system. Also I should make the point that this system is generally administered by the AEC but that is, by itself, not really a sign that the system is sound on the basis of those critical criteria.

At the outset I also want to briefly link this submission to my earlier one because the **electoral system is closely associated with the biased funding of the major parties.**

Of public funding approx. 83% goes to the major parties (2004/2007). Candidates of minor parties, new entrants and Independents who do not reach the 4% threshold receive nothing. Very few do. As to contributions of a private nature these certainly don't compensate the minors. Corporations will not spend substantial corporate money on other parties, perhaps with the exception of the Greens, to some extent, and the Australian Democrats in the past. Most would regard this as a waste of money. While private funding comes from fundraising, donations, investment and debt the enormous donations from the corporate sector to both major parties, in spite of speculation as to what their exact motivation is, clearly is a matter of great concern. The reality is (1) the existing electoral system has created this situation (2) once it was in place the biased financial support for the major parties, public and corporate, gradually further disadvantaged minor parties and newcomers. Now that elections have become very expensive that innate problem, primarily flowing from the electoral system, has become a huge problem.

A. Problems with the single-member district system for the House of Representatives.

I have been an ALP candidate for the House of Representatives on two occasions, in 1984 and 1987, as a candidate for the seat of Richmond. I resigned from the ALP in October 1989. Later I was a co-founder for Progressive Labour Party. (1996, resigned 2009)

The problems are many.

a. Serious lack of diversity in representation in the Australian Parliament. This is the consequence of new parties not being able to gain representation. The Green paper explains correctly that diversity has increased greatly in Australian society since 1945. This

is hardly reflected in the House of Representatives. The diversity that exists within the major parties is to some extent expressed in factions and there the diversity refers to different ideological positions, not ethnic origin for example. The operations of factions in both major parties have generally been regarded as negative, obscure and undesirable. It is not at all a substitute for real diversity. Frequently factionalism has given rise to the perversion of democracy, gerrymandering and various forms of skulduggery, in both the major parties. The possibility of more diverse representation, through proportional representation, would reduce or remove these undesirable features. There would be greater transparency as a result.

b. The single-member district system has resulted in frequent boundary changes, a costly and often controversial process; gerrymandering, resulting in election campaigns concentrating on a limited number of marginal seats; little economic development and government assistance, or none at all, in "safe" seats. By-elections are a by-product of this system. In PR casual vacancies are filled by the next on the list at the previous election.

c. An undesirable system dominance of the two major parties. This strengthens the adversarial culture in Parliament already inherent in the Westminster system. This brings with it the fusion between the political executive and the legislature as well as the functional amateurism of Ministers. In spite of the adversarial culture the major parties have become look-alikes in spite of sustained efforts to differentiate themselves from each other. Debates in Parliament are unreal and reflect political point scoring often on minor issues.

d. Lack of democracy in representation through single-member districts as often candidates are elected on the basis of around 40% of first preference votes. The result of this is that their first preference candidate does not represent a majority of electors while a large minority actually ends up with an MP of the other major party. It doesn't make sense to call this a democratic system. The idea of geographical representation by a single-district MP had some meaning in the distant past. MPs now represent a (major) party platform rather than the specific interests of constituents in a single-member electoral district, probably for the last 100 years already.

e. Compulsory voting combined with the existing voting system reinforces further the undesirable two-party dominance. It also forces the major parties to concentrate their platforms on capturing the "middle ground" (around 20% + of voters) - as a result of which they become look-alikes reducing diversity further. The over 90% voter turn-out in elections includes a very high percentage who are poorly informed, or not interested, or who are habitual voters and/or are of the view that it is not worth voting for any group other than the major parties because minor party candidates or Independents "won't get in anyway". The combination of these factors effectively blocks the emergence of new parties and new ideas gaining representation in the House of Representatives. They pin their hopes on the Senate where they may have some success. In practice this creates a false image of adequate diverse representation.

f. The single-member district system has definitely not been in the interest of furthering women representation. Although improving, at long last, this is still at a low level in Australia. Compared with PR systems the single-member district system has been biased in favour of men. The Scandinavian countries demonstrate the positive effect of PR for women in particular.

g. The single-member district system is also biased against NESB candidates and

Indigenous people. There are now a high percentage of citizens in Australia of NESB origin. However, research that I did in the 1990s clearly indicated that these were severely under-represented in all Australian Parliaments. What a waste not to have these people in the Parliaments.

h. Finally, there is another very detrimental drawback, often not realised or mentioned. The two-party dominance has thwarted many efforts to amend the Constitution, now an archaic and inflexible document. Proposals for constitutional and other referendums, initiated exclusively by politicians in Australia, need the support of the major parties and their campaigns, to be accepted by the voters so as to have a chance to be passed in terms of Section 128. Unless this bi-partisan support is secured the proposals are doomed from the start. The last time this was demonstrated clearly was in 1988 when the four sensible proposals, put after two years of diligent work by the Australian Constitutional Commission, were all lost once the Liberal Party decided to reject them.

B. What kind of proportional system?

Open Party List system recommended strongly.

Proportional representation voting (PR) is the main rival to the single-member district system. Among advanced western democracies it has long been the predominant voting system. For instance, in Europe, 21 of 28 countries use proportional representation, including Austria, Belgium, Cyprus, Denmark, Finland, Germany, Greece, Ireland, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, and Switzerland.

Where new constitutions were introduced in the last few decades PR was mostly adopted and **often enshrined** in the constitutions themselves. This was the case in Portugal (1974), almost all of the countries behind the former Iron curtain in Eastern Europe (after 1991), the new South Africa (1996) and also in New Zealand. 80% of the PR systems are "Party List". **What it means is that the political parties present a list of candidates and the voters place ONE mark next to the party and a particular candidate (at the same time) to indicate the preference for their party AND the candidate** (in the German and NZ systems, two votes are used to provide opportunity for a geographical/local candidate). There is a simple quota of votes to be achieved for a candidate to be successful. A party gains candidates in accordance with the number of times it achieves the quota. Preferences for those who are not number 1 on the list are counted first towards such candidates. In this way candidates not highly preferred by the party can be elected as a result of voter preferences. There is no horse-trading here. It is simple, transparent and counted quickly.

In the Netherlands a review of their PR "Open Party List" system some three years ago resulted in the Government not making any changes to it at all. The level of satisfaction with the electoral system is high.

Of course, the media and other critics in Australia have often argued against PR and provided, **ad nauseam**, thereby displaying great ignorance on the subject. The examples of Italy and Israel are always paraded as evidence of the claimed instability associated with PR. It is true that in a multi-party Parliament Coalitions need to be formed. These sometimes fall apart and new arrangements need to be negotiated, although often new elections are not required. Fixed term Parliaments are therefore no problem (as some

now argue it is in NSW). Such flexibility ensures Responsiveness to what voters want, identified in the Green paper as a key principle.

The critics usually avoid acknowledging that PR is used widely, and it is in fact the dominant system in very many countries. In Italy it was abolished a few years ago and replaced by a plurality system by people who believed that PR was the cause of Italy's well-documented Government instability. However, critics of the change argued that the instability had in fact other causes, inherent in Italy's social fabric. Recent reports suggest that the instability has actually continued after the abolition of PR proving the critics of the change right. A measure to ensure that not too many parties are formed is to have a minimum entry requirement for parliamentary representation, varying between three to five percent of the total vote. This exists in many countries.

Towards a cooperative political culture - can Australia afford not to make that change?

Perhaps a separate important point to make is that PR will change the political culture in the Parliament from adversarialism and fault finding to a search for common ground. The advantage of this cannot be over-emphasised. Anglo Australians are so accustomed to the parliamentary fight between "us and them" or "this side" and "the other side", like contestants in football matches, that they forget that there is in fact a lot of common ground.

That could be tapped into if there was different party composition in Parliament. Having a number of parties in the legislature, say, seven to ten, necessitates the search for common ground by three, four or five to form a workable coalition. This process is the exact opposite of adversarial. That would be a breath of fresh air for sure. The standing of Parliaments and politicians in the public's view would be enhanced!!

Let's face it. The two-party system has also much to do with the representation of capital and labor, a key social and political paradigm of the late 19th and 20th centuries. That situation is history in our largely middle class society. Can Australia wake up to that reality? Can we move on I ask?

Senate - different problems

Having been a candidate for the Senate on three occasions, in 2001, 2004 and 2007 I also argue from practical experience.

The Australian Senate is elected on the basis of Proportional Representation - Hare-Clarke system. This is sometimes used as a justification for not introducing Proportional Representation in the House of Representatives. However, an examination of the presumably proportional results in Senate elections, since 1949, will show that the minor parties and Independents are usually still under-represented proportionally in that chamber as compared to the major parties. One reason for that is almost certainly that the entire electoral system is dominated by the major parties as they have vastly greater financial and staff resources, and much more media coverage. They also tend to be favoured by the media because the Government is formed on the basis of the election result in the House of Representatives.

There are other factors at play here and that is the fact that Senators represent the states in equal numbers (six each in a half Senate election), which can also distort the proportional

character. This kind of "equal" representation has not made sense ever since 1910 - when the party system was formed - and should be ended altogether. Senators represent parties, not states. Having half-Senate elections is also most undesirable as it can thwart a Government that has been elected with a clear majority because three years earlier there may have been a very different outcome for the Senate and that result, valid for six years, can hinder a newly elected Government.

However, I want to emphasise here that there are serious problems with the Hare-Clarke system of Proportional Representation and, in particular, the way that this is presented for the Australian Senate elections.

Amongst PR systems it is the most time-consuming, costly, and most complex. It is decidedly not voter-friendly. In the Senate around 96% of voters use the easy way out: they vote "above the line" and do not enter a long list of preferences, the other option being "under the line". It is most doubtful that the results are better, that is "more proportional", than other PR systems. The Australian Proportional Representation Society has long maintained that Hare-Clarke is the most democratic system, especially when combined with the Robson Rotation device used in the ACT, but the problems with it are such that I cannot understand why it should not be replaced.

In any case, as used in the Australian Senate, where it is associated with a great deal of horse-trading between the parties and some Independent groups, obscure to the public in spite of the availability of preference sheets in polling booths, it has defeated both democratic and proportional representation. Electoral crooks have in recent Senate elections devised ingenious preference arrangements, and/or pretended to offer them but did not keep their promises, with the result that some candidates with very low first preference support, managed to be elected or nearly elected, while others, who had more substantial support, were blocked from being elected. The problems with party list nominations, which the Hare-Clark protagonists find the major drawback, operate fully in the Senate under Hare-Clark, with the major parties in particular. The major parties can count on two or three Senatorial seats in each state and they nominate party-preferred candidates for these positions. I would have no great problem with that in a fully PR Open Party List system but in the Senate situation it is the major parties that benefit from this party list advantage. Very few parties in the last 30 years have been able to gain sufficient strength to have the same benefit largely because they cannot grow in the House of Representatives. In the Senate, with 96% above the line voting for a party or group the horse-trading is decisive for the outcome. The voters are basically disenfranchised as they steer away from the ridiculous complexity of preferencing under the line. The horse-trading itself is dominated by the major parties as well. The overall result is that minor parties come and go, almost dutifully, having rendered the service of apparently infusing the major parties with new ideas during their temporary existence. That at least is the claim of those who support the status quo, most of them politicians of the major parties. However, this is basically nonsense. Most of the typically different ideas of the minor parties do NOT find a place in the platforms of the major parties. This was demonstrated again in the period the Howard Government was in power, with the exception of the appeal to the Hansonites. If they do find that place, as a result of the need to ensure preferential voting support, a long delay is usually experienced for public policy to be changed. Thus innovations to public policy, and to the system itself, are very slow in coming in Australia. This is very unsatisfactory, at times absolutely dangerous to the well-being and security of the nation. Australia cannot afford slow responses to major issues as a result of systemic blockages. The slow and still inadequate response to climate change is a strong case in point.

Senate remedies.

The PR - Open Party List system should also be introduced for the Senate - that is if the Senate is to continue to formally represent the states on an equal basis in the federal Parliament (12 for each states and two in the two territories). However, if equal representation for the states was abolished and full Senate elections were to be held at the same time, the case for maintaining a Senate at all would weaken greatly. A Senate elected on the same proportional basis as the House of Representatives, and at the same time, would simply provide a duplicate chamber although perhaps having the specific function of review. It may then be better to add the Senatorial seats to the House of Representatives. In the state of Queensland the Upper House was abolished long ago and New Zealand has no Senate.

Conclusion.

These major reforms can be introduced soon and do not, in the main, require a difficult to achieve amendment to the Constitution. It is the 1918 Commonwealth Electoral Act that needs replacing. I suspect that the major parties don't want to know about such reforms. That is fully to be expected but I believe that a fundamental change in the interest of the nation as a whole. A completely different political culture can be achieved in the foreseeable future as a result of such changes. If introduced a more diverse Parliament would be the result, more equitable funding of political parties achieved and undue influence removed or eliminated. What a great opportunity the ALP now has to change the entire image of Australia's political system and the politicians. Anybody who says that such changes would not be in the interest of the ALP may find that, in the longer term, the contrary is true.

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