

Electoral Reform Secretariat
Department of the Prime Minister and Cabinet
PO Box 6500
CANBERRA ACT

27 November 2009

Dear Prime Minister,

Re: Submission on Green Paper "Strengthening Australia's Democracy"

With the 10th anniversary of the failure of the republic debate, the green paper Strengthening Australia's Democracy is a long overdue resumption of the debate on the future of the Australian political system. Please find below my response to the Green Paper.

Chapter 2: Standards, qualities and expectations

- 2(a) *Principles that might be regarded as a basis for an electoral system for Australia are representation, responsiveness, universality, neutrality, transparency in electoral administration, integrity, the rule of law, civic culture, an open political environment, effectiveness and efficiency, and flexibility. Which of these principles are the most important to you, and why?*
- 2(b) *Are there any other principles that you consider to be key principles for an Australian electoral system?*

Clearly the first principle of an electoral system is to be, and just as importantly to be perceived by the electors and other democracies as, fair. i.e. fairly representing the voting intentions of the electors and giving a fair go to any minority group or individual wanting to be a candidate in the election. In some elections in the 1990's, the One Nation Party achieved around 10% of the primary vote for the House of Representatives and did not win one seat. Regardless of your political leanings, is it a fair result that around 10% of Australians were not represented by their primary choice of party in the lower house? Currently, setting the federal and state election rules are the prerogative of the governing parties. Unfortunately, over time these rules seem to have been made unnecessarily complex and compromised by ongoing tampering by the large parties trying to gain political advantage over their competition. This unfair political influence is corrupting the integrity of the electoral system and leaving elections open to charges of cheating and a loss of trust by the public in the integrity of the electoral process.

A similar situation used to be the case with the management of inflation. Successive governments played politics with interest rates leading to potentially disastrous results before wiser heads finally prevailed and delegated this important but ultimately technical & non party political matter to the professionals at the Reserve Bank, with much better results. In the same way, to reduce the unfair advantage of the large political parties, the role of the AEC should be expanded to

include the primary responsibility for the integrity of the electoral system in Australia and to fairly represent the primary choices of the electorate in the parliaments. For example, if a chamber has 100 seats, for each 1% of the votes, a party should obtain one seat – that’s a fair system. The AEC would then have full responsibility for creating a fair, voter friendly electoral system based on world’s best practice, such as Hare-Clark. Electoral gerrymandering as recently experienced in Queensland is an excellent reason for getting politicians out of the business of making the rules for their own elections. There is a clear conflict of interest, particularly by the larger political parties involved in preserving the current system which advantages them and is unfair to the smaller parties. For example, why are important minority groups such as Aborigines not represented in the Lower House? There is also no good reason why the electoral system rules in all state and federal elections should not be harmonised.

The tired old argument that only the current lower house electoral method produces “strong” governments is a red herring, usually trotted out by people with a vested interest in the current system and resisting further democratic development. If a democratic election does not produce a party with a parliamentary majority, it is for the politicians to negotiate and broker a compromise platform or contract which has majority parliamentary support and therefor be able to form a government. The purpose of the election is to determine the choices of the electors and allocate power accordingly. The purpose of the elected politicians is to represent their electors and to form a government representing the interests of the majority of the electors, not the interests of the biggest single party.

One of the strengths of Westminster type system of democracy is its ability to deal with the diversity of public opinion by having political parties represent those strong but differing and often conflicting political ideals of what is “right” & “wrong”. This competitive and adversarial system however needs an experienced umpire to ensure fair play (President or Queen & Governor General, it doesn’t really matter in my opinion as long as they are perceived as independent of the competitors and using an open and transparent rule book) and to counterbalance any future possibly ruthless elected prime minister who may try and reduce political competition & form a one party state as Hitler and others did, usually under the guise of “national security”, or in the case of a hung parliament, where no single party has an absolute majority and the politicians are sometimes unable to reach a compromise themselves, act as an “honest broker” by either appointing a “Former” to try and form a government, or an “Informer” to act as an ambassador to look for common ground among the parties and thereby assist the formation of a new coalition as happens in the Netherlands. For about the past 100 years, governments in the Netherlands, a country with one of the world’s oldest federal democracies and a population size similar to Australia, are usually coalitions and they are highly representative and stable governments for the reasons mentioned above.

Chapter 3: The legal framework for elections

3(a) Given the inherent challenges of achieving and maintaining harmonisation in a federal system, which areas of harmonisation should be given priority attention?

If the rules of the electoral system are de-politicized, made fairer and the AEC made independent and responsible for the electoral rules as suggested in 2(b) above, then the simplification and harmonization of the electoral systems across the states & commonwealth becomes much easier. A worlds best practice Hare Clark proportional representation electoral system could be formulated by AEC and implemented by the commonwealth and each state in a similar way that food safety laws are formulated

by ANZFA and implemented by each state in turn.

3(d) *What is the best way to ensure that our electoral laws are easily understood by participants in the electoral process?*

A fairer, simpler, voter friendly, harmonized state/federal electoral system, designed and administered by an independent AEC.

Chapter 5: Representation and voting systems

5(a) *Do the current voting systems for the House of Representatives and the Senate offer an appropriate balance between representation and responsiveness? If not, what changes should be made to the voting systems for the House of Representatives and/or the Senate?*

I didn't know there was a trade-off between increasing representation and a more responsive government. I googled the definition of responsive government and it seems to relate to improving the approachability of government using e-business etc. and that is also a good thing. I am not aware of any historical evidence that increasing representation decreases "responsiveness". If "responsiveness" means creating stable governments, see my comments under 2(b) above.

The current House of Reps electoral system does not produce results which are representative of the primary votes of the electorate and is unfair to the smaller parties and minorities. The current voting system as controlled by the politicians in the large parties has an inbuilt conflict of interest as it unfairly advantages the larger parties and disadvantages the smaller parties.

5(d) *Would there be benefits in greater harmonisation of voting systems?*

A simpler, harmonized, elector friendly voting system would probably reduce accidental informal votes and increase elector engagement.

5(f) *What strategies do you think could reduce the level of unintended informal voting?*

Simplify & harmonized federal & state voting rules with a fairer more voter friendly electoral system, see above rationale in 2(b) designed and administered by an independent AEC. The current lower house voting system as controlled by the politicians has an inbuilt conflict of interest as it unfairly advantages the larger parties and disadvantages the small parties.

5(g) *Would there be benefits in greater harmonisation of formality rules for federal, state and territory elections?*

State and federal electoral rules are unnecessarily complex and confusing as they have been politicised by the large parties trying to disadvantage their competition. A simpler, harmonized, elector friendly voting system designed and administered by an independent AEC would probably reduce accidental informal votes as described in 2(b) above.

5(i) *Should any changes be considered to the arrangements governing representation of the states and territories in the House of Representatives and the Senate?*

Aboriginal and minority representation in the lower house is inadequate in the current system. A fairer proportional representation system as suggested above in 2(b) should address this issue.

Chapter 6: Electoral management bodies

6(a) *Is the AEC sufficiently independent and transparent in its operations?*

No, the current electoral system is unfair and politically compromised by a conflict of interest in the larger parties, see rationale explained in 2(b) above for an expanded, politically independent AEC role with the purpose of designing & administering a fair electoral system.

6(c) *Are there functions that the AEC should be performing, which it is not?*

Yes, responsibility for the design of a voter friendly, fair and representative electoral system should be the full responsibility of the AEC as politicians in the major parties have a conflict of interest in maintaining the status quo which provides them with an unfair advantage over the smaller parties. Unfortunately for competitive reasons, the larger parties also continually tamper with the system making it more complex than necessary and this is also potentially open to corruption or gerrymandering and high informal voting.

6(g) *Are there any aspects of existing accountability mechanisms that might operate so as to be contrary to the objective of an independent electoral administration?*

- *Should the Electoral Act include a provision specifying the independence of the AEC, such as section 10 of the Tasmanian Electoral Act 2004?*

Yes, the current electoral system is unfair and politically compromised by the conflict of interest of the larger parties. Responsibility for a voter friendly, fair, harmonized, and representative electoral system should be the full responsibility of an independent AEC for the reasons given in 2 (b) above.

6(h) *In what ways could the AEC work more closely with state and territory electoral bodies to improve cooperation and enhance processes?*

Yes, responsibility for the design of a common, fair and representative electoral system for both state and federal elections should be the full responsibility of an independent AEC for the reasons given in 2 (b) above.

8(f) *Noting the requirement for a referendum, are there any amendments that you think should be made to section 44 of the Australian Constitution? Alternatively, are there any administrative solutions that you think could be introduced to support compliance with section 44?*

Yes, citizen initiated referenda/plebiscites (preferably online) with a simple threshold trigger as in some American & Swiss cantons & the new Scottish Parliament would give citizens a more direct voice in communicating with their representatives in the Parliament.

Chapter 9: Education for electoral participation

9(a) *Do you think that any changes should be made to existing electoral education programs?*

Yes, a stronger, politically independent AEC should also be given the responsibility for designing a voter friendly, fair proportional representation system for all federal and state elections and educating the voters in how to use it.

9(c) *Do you think that any new electoral education strategies should be introduced to improve the electoral participation of particular groups, such as:*

- *youth?*
- *Indigenous Australians?*
- *migrant citizens?*
- *persons experiencing homelessness?*

If so, what strategies do you think should be developed?

The current House of Reps electoral system discriminates against minorities such as these mentioned and possibly results in fatalistic responses as “ who cares, the system is biased against us anyway”. This is not an education issue but an issue of democratic fairness for minorities.

Chapter 10: The campaign

- Our political system is one person, one vote, not one dollar, one vote. Large political donations by business is perceived by many as unfairly buying influence & campaign funding should be limited to say \$1000 per person or organisation.

10(g) Should any changes be made to the arrangements governing how-to-vote cards?

Yes, they are open to corruption and backroom secret deals, politically anti-competitive and should be illegal. It is the electors choice how he votes and how any distributions are made, not the political parties. The electoral system rules should be redesigned to be much more voter friendly, fairer, simpler & with harmonized rules across federal & state elections by an independent AEC.

The electoral system delegates considerable power to politicians and governments and consequently is the source of their authorities over citizens. Unfortunately not all politicians and public servants are divine and are merely human beings like the rest of us. This means they are subject to the same temptations to use this delegated power in their own interests, rather than the interests of the electors they represent. Political and bureaucratic power must be subject to continual active monitoring and scrutiny with strong sanctions to ensure this delegated power is exercised appropriately. While the media play a role in this matter, NSW and Queensland have set up monitory bodies such as ICAC and the PIC to address the issues of integrity and corruption and the federal government needs to take heed of this development. The issue of actively seeking out political and bureaucratic corruption are not regional issues limited to NSW & QLD but national issues and the evidence for their urgent need of a national body is overwhelming. My suggestion in this submission is to address this issue in the electoral domain by strengthening the electoral rule design and monitory functions of the AEC or equivalent body and change the system from large party friendly to voter friendly.

Charles Darwin once said, “*It is not the strongest of the species that survives, nor the most intelligent, but the one most responsive to change*”. For whatever the reasons, Australian politicians are generally distrusted by Australians and this unfortunate situation has resulted in a complete block on Australia’s political evolution. The failure of the republic debate and the failure of many other referenda over the past 50 years are examples of this potentially dangerous gridlock. Can Australian politicians respond to the changes which have clearly taken place in our society since federation and allow the political system to evolve as it must, or do we just wait for a train wreck to happen and pick up the wreckage?

One of Paul Keatings major legacies was the deregulation of Australia’s economic system, which greatly increased our competitive advantage in the world. Will Kevin Rudd be able to achieve a similar legacy by making the currently gridlocked political system fairer and more representative and thereby able to evolve as it must to increase Australia’s political advantage at home and abroad?

Thank you for the opportunity to comment on the Green Paper ”Strengthening Australia’s Democracy”.

Yours sincerely,

