

Submission on

Strengthening Australia's Democracy

Electoral Reform Green Paper

to the

**Special Minister of State
Electoral Reform Secretariat
Department of the Prime Minister and Cabinet
Canberra**

From

Eric Jones

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i)

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iv)

General Overall Summary.

The submission commences with some general remarks on public participation, support and trust and is followed by comments on the principles as outlined in 2.10. Here Representation, Responsiveness, Neutrality, Integrity, Civic Culture and Transparency in electoral administration is commented upon whilst, at the same time, acknowledging the importance of the other principles outlined.

Comment is also made upon the balance between efficiency and effectiveness and well as the question of funding for the administration and operation of the electoral system.

Some comment then follows on the Legal Framework for Elections on the practical voter and legal point of view of the harmonization of the voting provisions.

For the Franchise the view of Mr. Melham for British Citizenship is supported as well as suggestions for enlarging the provisions for Australians living abroad. The voting age of 18 should not be changed and the position of prisoners prior to 2006 should stand.

In terms of Representation and Voting Systems Proportional Representation (PR) is suggested for the House of Representatives whether 1) as outlined in 5.43, STV/multi member seats like the Act and many Scandinavian countries, or 2) the New Zealand/Germany MMP plurality and proportional system. To the general question of the stability of government in Parliaments that have PR the experience of Scandinavian countries, but particularly Denmark, is examined. Closer to home the experience of New Zealand post the 1986 Royal Commission on the Electoral System, is commented upon as is the experience of the Citizen's Assembly on Electoral Reform in British Columbia Canada. Some comment is also made upon minor parties and their influence.

If the recommendation is not accepted a recommendation is made that a Royal Commission or a Citizen's Assembly on Electoral Reform to investigate the best electoral system for Australia should be held.

In terms of Preferential Voting (PV) full PV is advocated for the House of Representatives (HR) and no change being effected in the Senate. To assist harmonization between jurisdictions and to reduce the Informal vote some change to the design and layout of the ballot form is advocated. This lay in the area of the HR ballot paper having a "One" only box, "Above-the-Line" with a registered ticket as well as the normal "Below-the-Line" provision that allows voters to mark their own preferences.

No threshold should be introduced for representative purposes.

Issues relating to the formality of votes are considered and recommendations made in this area.

v)

For Parliamentary Representation enlargement of the HR by 24 and the Senate by 12 members is advocated.

For Electoral Management bodies it is suggested that a single Australia wide body, with state wide divisions, and federal and state responsibilities be set up with appropriate powers by cooperative agreement.

It is suggested that the AEC have the full promotion and administration of Postal voting and that there should still be an AEC office for every federal electorate.

For enrolment and participation it is suggested that automatic enrolment and update of details be implemented in cooperation of the states along the lines of the NSW SMART Roll programme being presently introduced in that state.

For the close of rolls the pre 2006 arrangements should be reinstated.

Some comment on proof of identity is made basing any further action in the enrolment/voting process on the original signature which should be digitalized on the administrative computer system.

The exemption from the Privacy Act for registered political parties should be removed.

For Registration of Parties and Candidate Nominations a number of changes are supported with preselections being, in some circumstances, being more open.

Multiple nominations per party per HR electorate should be confined to two.

All candidates should complete a Child related conduct declaration.

For Education for Electoral Participation electoral education should be made mandatory in all Australian Schools.

New or improved electoral education strategies are outlined or supported for Indigenous Australians, Youth, Migrants and Homeless people.

In terms of the campaign, for media a “light touch” should apply but with a “heavier” back up position, if practicable, being able to be implemented.

The need for the JSCEM and AEC to be able to follow up and investigate new technology is advanced.

For the “Do Not Call Register” and Email Spam political parties should be subject to a voluntary ban by the general public.

vi)

Support is given about some aspects of the use of public resources for political campaigns in terms of postal and travel allowances and the need for regular independent audits.

In view of the difficulty of regulating new media it is suggested that the media ban be abolished.

Comment is made about major political parties hogging perimeter boundary space with signage and the need to standardize the size of such material along the NSW lines.

How-to-Vote cards should be registered with the AEC prior to Election Day.

In terms of Polling and speed of the count Prepoll Votes should be processed and counted as ordinary votes. Flexibility should be improved in their usage for home and out of electorate voting. The ACT technology should be considered to increase the speed of the count if feasible Australia wide.

For Postal Voting allow the date of the witness signature to be the determinant on the validity of postal votes. Again for the full distribution, administration and processing Postal Voting Applications should be done by the AEC. However, if it is seen that there is still a place for political parties then the application should be forwarded to the AEC not to a political party address.

Electronic voting, but not electronic scanning and input and counting, is considered but not thought feasible Australia wide because of security and cost aspects.

Comment is made on multiple voting noting that by reported standards it is small and the need for those concerned about it to prove their case.

Proof of Identity lies in the area of enrolment and some comment is made about its use for Provisional Votes that would help administration in this area.

No identification should be required on Election Day except for enrolment and voting and some voluntary provisional vote aspects.

For removal of persons from the roll the pre 2006 position should be reinstated.

The location of polling booths should be convenient for sectional interests.

Non compulsory voting should be introduced in Australia though I know that, in no way, will compulsory voting be abolished. I do, however, support compulsory enrolment on the grounds that people should not be denied the right to vote if they want to.

Various points are supported for the scrutiny of ballots.

vii)

For life and spectacle and general expectation by the public to have it the National Tally Room should be retained but suitably funded.

For the Senate preference distribution purposes 1) the “Weighted Gregory Transfer Method is suggested for the transfer of surplus votes; and 2) count flow charts should be provided to scrutineers to show what is going on.

For Automatic Recounts the JSCEM/AEC recommendation for recounts where the result is within 100 votes is supported.

In regards to Dispute Resolution generally the Canadian system is supported for penalties (a graduated basis) in regard to compliance and enforcement.

Comment is made on the general question of harmonization of electoral affairs but that should not extend to all elections being held on the same day.

The submission closes with issues such as the death of a candidate between nomination and closing day, the Term of Parliament Direct Democracy.

Four Annexures are provided to supplement remarks made covering:- 1) Postal Voting re Q6 (C, 2) the Informal vote, 3) Threshold levels in certain Parliaments, and 4) Direct Democracy on the Swiss model. Perhaps the last of these would not be in your Terms of Reference.

(Because of the detailed question framework of Chapter 15 this summary does not cover every point covered in the submission.)

Thanks.

I would like to commence by thanking you for the opportunity of making this submission to the Green Paper.

Cover sheet for this submission.

A cover sheet is attached.

Qualifications.

Unlike my submission of 20 February 2009 to your first Green Paper entitled “Electoral Reform Green Paper –Donations, Funding and Expenditure” of December 2008 I have not in this submission set out points “for” and “against” for items under discussion. Rather I have tended to take on board your points, agree to it by simply stating the point/s, add anything by way of general comment that I may wish to say to advance my view.

Where I have found it difficult to answer a question I have mainly sort to set out a principle.

Whilst I, as a lay person, might not have addressed every aspect of the items outlined in Part 3: Conclusion, in Chapter15, “Issues for Discussion and Comment”, I trust that this contribution will cover a fair number of them.

Some of my detail is not complete, for example – where a rough calculation has been done for an increase in the membership of the House of Representatives.

I do not claim that I have been comprehensive enough for everything that I have contributed in this submission because I have run out of time due to other pressures in my life.

1)

CHAPTER 1: Introduction to the Australian electoral System.

General introduction.

Point 1.23. Public participation, support and trust.

Our compulsory voting system ensures public participation through high voting turnout, compared to non-compulsory regimes, whether or not the voters want to be involved or not. Or as some proponents of compulsory voting say – “It is only compulsory attendance at a polling booth with a view to vote that applies. After all, you can simply lodge a blank or marked invalid ballot paper.” A system that engages the voters of Australia through their genuine interest and willingness to be involved would be a much better system to have. However, for better or worse, we have a compulsory voting system.

Points 1.24. The changing electoral environment.

Whilst the character and composition of Australia’s population is changing it is also the behaviour of the wider voting population that is changing. For example – more people seem to be moving to “Lifestyle Voting” with the increasing use of the Pre-poll and Postal Voting provisions.

Discussion Points.

1.36 and 1.37 noted.

CHAPTER 2: Standards, Qualities and Expectations.

Question 2 (a).

I should commence by making some reference to my first submission particularly in the Principles and Values area. I stated –

“I agree with the Principles and Values set out in Chapter 2. 2.1, of the Green Paper relevant to consideration of the regulation of electoral funding and disclosure. For me I would see Integrity, Transparency, Fairness and Participation as the ones I would major on but not neglecting the others.”

Similarly in this submission I would say that **all of the Principles outlined in 2.10 are important**. However I would say that for me the following would apply without being in any order of precedence –

2)

1) Representation.

In a representative system representation in the legislative should be, as far as possible, in strict proportion to the vote. A proportional voting electoral system, as for example, in Germany, New Zealand and some Scandinavian countries provide by and large for this. Our system does not as it merely provides for a preferential system that can provide for the election of a government on a vote that is lower than their opponents. E.g. In five Federal Elections, 1954,61,69,90 and 1998 the winning party was elected on a primary vote (prior to 1984) and a primary and preferential vote (subsequent to 1984) lower than their opponents.

A Royal Commission like the 1986 New Zealand Royal Commission on the electoral system should be held to ascertain what is the best system for Australia. Alternatively, a Citizens Assembly on Electoral Reform like the British Columbia, Canada, one should be held.

2) Responsiveness.

It stands that a movement in the vote of the people should result in an outcome that reflects such movement. Socio-economic territorial based seats can resist voting movements and result in the outcomes mentioned in the five cases noted above.

3) Neutrality.

As you have pointed out elections should be administered impartially. There should be protections against the inappropriate use of the resources of the state for political benefit. There appears to be a perception in some quarters of the public that the postal vote applications letterboxed in the general community by the major political parties, which sometimes look like official documents, is an inappropriate use of the system. The distribution and administration of Postal Vote Applications should be done by the Australian Electoral Commission and not by any political party.

4) Integrity.

Stands on its own without any further comment other than to add – minimize invalid voting.

5) Civic Culture.

Very important but needs to be considerably encouraged in Australia. Most people have a minimal interest in politics and the operation of a parliamentary democracy.

6) Transparency in electoral administration.

Important here for the more active participants.

3)

On the question of efficiency and effectiveness and the balance that it brings to competing elements. This aspect is always present and is one that should be considered in the final analysis on what it does to promote public engagement and democratic outcomes.

It is sometimes said that democracy itself is inefficient and sometimes inefficient provisions have to be made for it to operate. E.g. small number polling booths in the outback of Australia could be said to not be very cost effective as compared to a suburban polling booth but is nonetheless vital for our democratic system.

Funding.

The electoral system should be given proper funding even to the extent of some inefficiency to provide for the people of Australia to be able to engage and express their voting views.

CHAPTER 3: The Legal Framework for Elections.

Questions 3(a) – (d).

3.28 From a practical voter point of view harmonisation of the voting system provisions.

In terms of the actual voting procedure **full preferential voting should be the principle across all of the electoral systems.** Optional voting is a defacto first past the post system with all of that systems fault (Plurality results with a candidate being elected on a minority vote or a left over vote.)

From a legislative point of view.

* The Principal Act should not be extensively prescriptive. It should set out the essential principles of the Australian Electoral system with more detailed and comprehensive arrangements being contained in subordinate legislation.

* Electoral laws should be reasonably flexible.

* Electoral laws should be readily understood by using Plain English language in the text of legislation and explanatory documents. I appreciate that this could be difficult for legislation because of legal considerations and technical issues however an attempt should be made to improve the situation.

4)

Electoral and the Roll Maintenance Act provisions.

Consideration should be given for their amalgamation into one act even to the extent of introducing separate sections in one principal act with reference provisions as appropriate to the other part. Consolidation for ease of reference alone would be worthwhile.

Prepoll Centres.

Given the growth of “Life-style” voting the status of ordinary voting should be the provision.

Electoral laws more easily understood.

Make them more easily understood and then provide explanatory documents in various formats. The AEC provide useful explanatory documents, whether on the website or as hardcopies, of various areas of their work that are of use and their efforts are to be commended.

CHAPTER 4. The Franchise.

4(b) British Citizenship Voting. 4.29 to 4.32.

The issue of British citizenship voting was visited and settled in 1984 with an expectation that the issue would work itself out through the system within the next 40 – 60 years when such citizens would die out.

I suspect that present day most British Citizens really have no idea of the implications of their citizenship on their voting rights.

To regularize the situation, assumably you would have to deprive people of the vote to make them take up Australian citizenship to regularize a provision for a relatively small number of people on the assumption that the figures quoted are correct.

How many of these people are “The Forgotten Australian People”? Federal Parliament. Apology by the Prime Minister on the 16 November 2009. Why add to their burden?

However I note that they could take up joint citizenship if they wish to retain their British connection.

Whether this item would comfortably sit in a case effectiveness and resources allocation case that would be an advantage to the reform of the electoral system I have my doubts.

5)

Reading some debate on this question are there constitutional and legislative questions here in this whole matter? I am not competent to answer this area.

However this is not to say that British citizens should be encouraged in every way possible to become Australian citizens or seek joint citizenship.

However to equalize voting right status Mr. Melham's suggestion should be implemented as outlined in his Supplementary Remarks in the JSCEM Election 2007 report.

4(b) Permanent resident voting. 4.33 – 4.35.

The British Citizenship voting is an historical development outcome in Australia's history but permanent residents reflect the current situation where people live in Australia but have not become citizens. For the reasons outlined in 4.35 I do not think that the vote should be extended to them.

4 (c) Australians living abroad. 4.36 – 4.41.

Provisions as outlined in 4.41 should be implemented to encourage greater voting by Australian expatriates. It might even mean having overseas addresses on the roll!

4 (d). The Voting Age. 4.42 – 4.45.

The voting age and provisions should be maintained at 18 years for the reasons outlined in 4.44. Also refer to an article by Professor Kenneth Wiltshire, Australian 15 October 2009 entitled "Sweet 16 and too immature to vote".

4 (e) Prisoners. 4.46 – 4.51.

In the light of the comments made in 4.50 the law as applied prior to the 2006 amendments should stand and be uniform across all jurisdictions if this does not apply at the moment. No doubt, any action for uniformity would have to be on a cooperative federalism basis.

Person of "Unsound Mind". 5.52 -0 4.59.

A difficult area. The last point in 4.59 seems to be a reasonable way to go. I.e. – rather than removing a person from the roll a medical certificate stand as an "acceptable excuse" for not voting.

6)

4 (g) Harmonisation. 4.60.

Ideally harmonization should occur across all jurisdictions. However this might not be possible because of political and party self interest. Perhaps constitutional issues might intrude with the High Court making further judgments that affect this area. I guess that initially progress will have to be made on a “cooperative basis”.

CHAPTER 5: Representation and Voting Systems.

Discussion points.

Question 5(a) (5.115.) Options for the House of Representations (HR).

Whilst I appreciate that there is not much support for the view that the HR and the Senate should have basically the same voting systems I think proportional representation could work. Accordingly I would suggest proportional representation for both houses.

Our full preferential majoritarian system in the HR is based upon single member territorial seats. A member in to many cases is elected upon the preferences of the voters after the primary vote. As such large numbers of people are represented by a member of a party that is not their first choice. I well remember being told of stories of people going to the next HR member because they, for various reasons, they did not want to go to their local member.

Representation is not in proportion to the people’s vote. As well the effectiveness of a vote is devalued. A vote cast in the Senate is more effective than one in the HR in so far that representation is in closer alignment with the vote. Though it is noted that the vote value between the states is different to the detriment of the larger states voters.

Our present HR system gives the winning party an extra bonus that it is not entitled to. Whilst it makes for a more stable government it does not reflect the will of the voters. 40% to 50% of voters are not represented by a candidate of their first choice.

I understand a vote in the Senate gives something like 85% representation in proportion to a voter’s first choice.

As noted above in five Federal HR Elections, 1954,61,69,90 and 1998 the winning party was elected on a primary vote (prior to 1984) and a primary and preferential vote (subsequent to 1984) lower than their opponents.

Recommendation - Proportional Representation should be introduced for the HR along either –

1) the first system outlined in 5.43 where you have a better mix of votes to representatives; or

7)

2) using the New Zealand or German system which gives fairly strict representation in proportion to the peoples vote.

for the reasons outlined in 5.44 and the points made above.

I appreciate Sections 24 and 29 of the Australian Constitution would have to be overcome by Constitutional change with all the problems that that entails!

(See later for some comments about a Royal Commission or a Citizen's Citizen Assembly on Electoral Reform to investigate change after the next section.)

Commenting upon the "Against" position in 5.45.

A) Re formation of stable governments and coherent policy formation.

1) i) Coalition governments of various parties were a feature of nearly 50% of the 20th century in our Federal Parliament.

ii) Did this present difficulties for most of that time?

2) Arrangements could be put in place for a system that provides for formal coalition agreements, informal supply and confidence agreements. You see these in Scandinavian Parliaments and in New Zealand and Germany.

3) During the course of a Scandinavian, United Kingdom and European holiday in August and September of last year I took the opportunity to visit, or attempted to visit twelve Parliaments. In my report to the New South Wales Chapter of the Australasian Study of Parliament Group, who provided me with a Letter of Introduction, I reported the following –

Quote –

STABILITY OF GOVERNMENT IN PARLIAMENTS THAT HAVE PROPORTIONAL REPRESENTATION.

It could be said that stability of government in a Parliament is dependent upon the representation of political interests in it which in turn is determined by the electoral system. As well Proportional Representation is associated with minority and coalition governments and/or with unstable governments.

8)

All of the Parliaments- Denmark, St Petersburg Russia, Estonia, Finland, Sweden, Germany, Norway, Scotland, Ireland, Northern Ireland, Switzerland (except for the United Kingdom) have proportional or mixed proportional systems for the election of their Members of Parliament. (This also applies to the EU Parliament.)

To the general question of the operation of minority or weak governments under proportional representation systems I would suspect that the following factors and points (not exhaustive) apply:-

- * Policy convergence;
- * Consensus (over policy and action);
- * Cooperation and compromise;
- * Arrangements (Committees. Mediation provisions.);
- * Special provisions. Constitutional or practice/tradition. Powers to dissolve parliament as a last resort;
- * Contestability of the political scene; and
- * Political Ideology (whether or not consensus overcomes ideology or similar political makeup lead to cooperation).

What is the experience of the Scandinavian countries?

In the second half of the 20th century Denmark had 85% minority or coalition government. (It was followed by Sweden (approx.) 75%, Norway 70%, Ireland 50%, Finland 30% and Germany 10%.) (PR Myths. ERS Quick Guides London)

Denmark has a strong legislature with strong legislative powers given to its committees. As well it is governed by the principle of negative parliamentarism (This means that while a government does not need a majority of seats in the parliament, it must have a majority of seats against it in a vote of no confidence.). They have a strong broad consultative process that has a compromise element that applies for the development of policy. They try to tie in all the stakeholders as early as possible.

In general then the governments listed above have effectively governed under formal coalition agreements or informal supply and confidence agreements. Other arrangements, like for example Norway that has no Constitutional provisions to dissolve the Parliament between elections, are in play. Other practices relate to the diminution of the concept that a government does not fall or lose its mandate because it suffers legislative defeat on the floor of the Parliament.

As well the lack of an effective means for the people to exercise their sovereignty through such mechanisms as Recall and Initiative provisions (except for Switzerland) prevent the people from trying to sort out the parliamentary political representation during the term of a parliament.

9)

Minority governments are also effective in political systems that have a high level of policy consensus between the political parties. This could well have been what happened in Denmark. Of course, this can also happen in Westminster type Parliaments such as Ireland. Consensus or compromise has to apply for progress to be made in the administrations life.

Another factor would be the contestability of the political parties over a period. Where there have been two large political blocks there is convergence. Where there has been the entry of new political blocks more competition has entered the scene.

However the difficulty with minority governments is that they tend to erode the parliamentary principle, which is, that governments take responsibility for legislation until they lose the confidence of the parliament. As well minority governments tend to have weaker executives.

From the Scandinavian countries parliamentary history it can be seen that minority governments, (notwithstanding difficulties) are not necessarily less stable than majority governments and can in practice operate.
(In our part of the world the experience of the Labor Government in New Zealand comes to mind – they have a MMP plurality and proportional system like Germany.)

End of quote.

Point 5.46. Joint Select Committee on Electoral Reform (JSCER) 1983.

The 1983 enquiry preceded significant change that was brought about in New Zealand by a process that commenced with investigation of various electoral systems which was followed by action by the people. Whilst political considerations were a factor, the First Past the Post system was seen not to be suitable for New Zealand. Hence a Royal Commission was put in place in 1985 and reported in December 1986 which resulted in the present system being put in place. (Report of the Royal Commission on the Electoral System. “Towards a Better Democracy” December 1986.) The Royal Commission removed the partisan element in the investigation. The independent Royal Commission had credibility.

Membership of the Joint Select Committee on Electoral Reform was partisan to the extent that its membership was made up of participants in the system. Any investigation of significant change to the Electoral System should be by an independent non-partisan body such as a Royal Commission or a Citizen’s Assembly on Electoral Reform.

A Citizen’s Assembly on Electoral Reform in British Columbia, Canada, for example, was held over a period of time. This was put in place after an election result in 2001 that saw a party win 77 out of 79 seats with 57% of the vote.

10)

The world's electoral systems were examined and proportional representation was judged to be the best for their Parliament. (<http://www.citizensassembly.bc.ca/public> The Final Report.) At the first referendum 57% of electors voted for it. The necessary number of seat threshold was exceeded. Unfortunately it failed on that occasion because it did not reach the necessary 60% popular vote. At the last Provincial election another proposal to implement proportional representation in the same form for their Parliament was defeated. Nonetheless the people's impartial representatives judged, with expert advice, that proportional representation should be the way to go.

Refer also to the experience of Scotland and the Scottish Parliament Electoral System.

B. The question of minor parties and their influence.

Why shouldn't **minor parties** be in the HR if that is the will of the people? To the question of individuals and small parties holding a balance of power or exercising a degree of influence etc out of proportion to their levels of support in the electorate. They can only do that if a major party votes with them to form a majority. If a major party will not their influence is nil. Further, their influence at times can mean compromise that can remove the hard edge of a government's position for the betterment of the people of Australia.

Whilst this is probably outside your terms of reference as a backup Direct Democracy Referendum and Recall provisions should be implemented to allow the voters to be able to recall legislation passed in such circumstances.

C) Changes to government may be less determined by voters --- political parties --- post election negotiations etc.

In a sense we already have that, in at least that the Liberals and National Party have entered into a Coalition Agreement that the people, as a whole, have no say in its formation.

However the system seems to have worked in New Zealand and Germany.

D) Candidate "is no less representative of an elector ---- simply because the elector did not direct a vote to that candidate."

True but he or she could be quite objectionable to the elector. An elector might actually care about the political complexion of their member!

11)

E) Multi-member constituencies – larger than single member ---- are less directly accountable.

True but under the German and New Zealand system you still have your “local” directly accountable territorial member. The other multi-member members have to compete with the local member for issue and recognition purposes and this can make them more involved in their constituent’s affairs.

F) Counting takes longer. True and is part of the cost of having a more representative system.

G) Filling out the ballot paper more complicated – higher informal vote.

Not if you have registered tickets and a single “one” notation as the principal method of completion with an Above-the-Line provision. However provision would still have to be made for an “Open list system” notation like our Below – the – Line provisions on the Senate ballot paper.

H) In the early 20th Century Australia led the world in Electoral Reform. As far as I know there has not been a fundamental review of the system overall for 60 years.

To recap –

Recommendation -

Proportional Representation should be introduced for the HR along either –

- 1) the first system outlined in 5.43 where you have a better mix of votes to representatives; or**
- 2) using the New Zealand or German system which gives fairly strict representation in proportion to the peoples vote subject to Constitutional clarification and if necessary change**

for the reasons outlined in 5.44 and the points made above.

If this is not accepted I would recommend a –

Royal Commission; or

A Citizen’s Assembly for Electoral Reform, along the lines of the British Columbia’s Assembly be implemented.

If you want citizen participation, in a real sense, this is one way of implementing it.

Question 5 (b) (5.115.)**Should Optional Preferential Voting (OPV) be introduced for the House of Representatives?**

No. OPV acts as a defacto First Past the Post system with winners being elected on a plurality but not a majority basis. For example – The last four places in the Legislative Council Elections in New South Wales at the last two state elections have been elected on a “left over” primary vote basis that meant that they did not have to obtain a full quota for election. If the voters had been required to express full preferences there might well have been a different outcome.

Also for the points set out in 5.52.

Some comments re paragraphs on -

5.53. Partially Optional Preferential Voting.

As stated in 5.53 it would be unlikely to reduce the No.1 only informal vote.

5.54. Ticket voting.

This option should be more fully investigated.

5.60. Savings scheme.

For the reasons set out in 5.59 to 5.62 and particularly 5.61 the Savings Clause should be reintroduced.

Question 5 (c) 5.115. For the Senate, should 1) preferential above-the-line voting be introduced? (If you mean that all boxes have to be completed 1 – 16 etc across the top. Whilst I like the choice this could increase the Informal vote. The present No.1 mitigates against the informal element.) **and**
2) optional preferential voting below the line be introduced.

For 1) and 2) No.

The present system of a full expression of preferences expresses the full will of the voters in a mostly fuller representative way.

Re 2) – the voter who votes below the line is generally “a more determined” voter. Otherwise why would they go to the trouble of fully listing their preferences? It could also be said that they might have more fully considered the candidates and want to express their own preferences. Whilst I do not have any figures I would suspect that the Informal vote in this area would not be high.

13)

Voters voting on fully preferential basis below-the-line could be assisted by it being made aware to them that they can get from the AEC website a list of the candidates in ballot paper order. They could be encouraged to list out their vote on such a print out and take it to the polling booth to use it to reduce any informal vote.

5.115. Should Optional Preferential Voting (OPV) be introduced for the House of Representatives?

No. OPV acts as a defacto First Past the Post system with winners being elected on a plurality but not a majority basis. For example – The last four places in the Legislative Council Elections in New South Wales at the last two state elections have been elected on a “left over” primary vote basis that meant that they did not have to obtain a full quota for election. If the voters had been required to express full preferences there might well have been a different outcome.

Also for the points set out in 5.52.

5 (d) 5.115. Would there be benefits in greater harmonization of voting systems?

Ideally yes but not at the cost of a system that is more fully representative. Also there would also be practical harmonization matters, constitutional and political considerations That would probably mitigate against such an outcome.

FULL PREFERENTIAL VOTING SHOULD BE INTRODUCED AT ALL LEVELS.

However a case could be made for the introduction of “ticket expression” where the use of only the Number 1 notation would mean that a full expression of preferences is counted. An above-the-line box could apply for the HR as well as the present Senate. This would have to be accompanied with a below-the-line provision for those voters who wish to express their own preferences.

5.64. Threshold System.**Comment.**

Whilst it is true that various countries have thresholds it should be noted that they have different levels. For example-
Denmark 2%. Norway 4%. Estonia 5%. Germany 5%. New Zealand 5%. Sweden 4%/12%.

De facto but not formal quotas apply in Scotland, Ireland, and Northern Ireland

United Kingdom. NONE.

Finland. NONE.

Switzerland. NONE.

Refer Annexure III.

As you point out in 5.64 internationally thresholds are more commonly associated with “party list” systems of proportional representation than with STV.

To the general question of having a threshold I feel that we should not have such a position. All people should be entitled to stand in a democracy. I appreciate that “nuisance” candidates can and do sometimes stand but there are other ways of dealing with them such as having the written support of so many people, nominations fee amount etc.

No threshold should be introduced. However, if you are going to have a threshold it should not be too erroneous. A level of 2% like Denmark should apply.

5.68. Changes to the ticket voting system

5.69 True – the provision is good but there must always be the provision for those voters who wish to express their own preferences Below-the-Line. (BTL). These voters do not want to be dictated to by the political party as to how preferences should go. By and large, people who vote BTL tend to be voters who have examined the candidate list and make an informed vote along their own consciences.

5.70 True. Ticket voting has disempowered voters. Voters, ideally, should be informed enough to make their own decision on preferences. I appreciate that this is not so!

5.71. True.

5.72. No do not adopt either approach as outlined. Leave it as it is!

15)

General. Pre 1984 the Senate ballot paper had only one provision – i.e., fully listing the number of candidates 1 to 57 etc, there used to be a “saving provision” that allowed three errors in consecutive numbering. For BTL this should be reintroduced.

5 (d) 5.1115. Formality and the reduction of the informal vote.

Comments first.

5.86. Strongly support the first two dot points.

Harmonisation of formality criteria.

5 (d) Yes, consistency of the voting method would assist people crossing jurisdictions. However that should not be at the expense of the principle of majoritarian vote under the present federal system or under a proportional system that gives representation in proportion to the vote.

5 (f) Unintended informal voting.

The biggest problem seems to lie in the differences between the state provisions for notation of the number ONE only and the federal requirement for the full expression of numbers on the ballot paper.

Recommendation.

5.115. The HR ballot paper should be redesigned to provide a No.1 only, registered ticket, Above the Line provision and a Below the Line provision that reflects the present ballot paper position.

This would allow for the position to be brought in line with the state provision in New South Wales and allow people to have an easier way to vote on the ballot paper. Hopefully, it would in turn reduce the informal vote.

X ticks etc

Should be allowed if they are a single X,tick etc notation for No1 followed by number 2 etc.

Re 5.87. A “None of the Above” provision should not apply. Voters can deliberately vote informal, and they do, if they want to by various notations.

Refer annexure II.

16)

Question 5 (h). Redistributions.

I agree that there would be difficulties in implementing a “Fairness” criterion on an Australian wide basis and as such support the JSCEM conclusion but not the grounds on which it was based – “in the absence of a clearly demonstrated need”. On five occasions in the last century the will of the people was not adhered to.

I have no answer but I think that, in principle, there should be fixed timings for redistributions. More work should be done in this area - by the Royal Commission or Citizen’s Electoral Assembly mentioned above.

Question 5 (j). PARLIAMENTARY REPRESENTATION.

Given the high enrolment figures below in Australia and the fact that we have not had an increase in the number of seats in the Parliament since 1983 is it time to increase the number of Members of Parliament in the Federal Parliament?

New South Wales	Average	92464
Victoria	“	93684
Queensland	“	91044
Western Australia	“	88302
South Australia	“	98520
ACT	“	120101

(Tasmania “ 70497)

(Northern Territory “ 60029)

(Source Gazetted Enrolment as at 30 April 2008. AEC.)

Obviously your figures at Table 5.1 at 5.15 are more up-to-date.

Obviously the Senate representation would also have to be increased.

17)

I do not have the technical skill or understanding of the system to be able to set out a proposition for such an increase in detail but submit the following “rough calculations” for your consideration.

Actual Vote figures. Average vote per seat per election in Australia without taking into consideration the Constitutional position of five seats in Tasmania which mean they have lower enrolments.

Roughly the following has applied without going into every detailed change.

Redistribution.	Election.	Number of Seats.	Average Vote per seat.
1948	1949	121 states	39948
1983/84	1984	150	58547
----	2007	150	86205

(Source Wikipedia and AEC)

In rough terms a 20% increase in Members between 1948/84 for a 35% in the number of voters. Roughly there is a 32% increase in voters between 1984 and 2007 which on the 1948/84 growth precedent would justify an increase in the number of seats.

I stress that this is a rough calculation and might not even be a correct basis on which to proceed.

ANOTHER CALCULATION based upon your Table 5.1 figures.

Using the figures in Table 5.1 a rough calculation on average enrolments per division would be **would be as follows –**

A. 1949. Say 40000 Seats 123

B. 1983/84 “ 75000 difference between A and B = plus 35000. Seats to 147/150. Say plus 24.

C. 2009 “ 92000 “ B “ C = plus 17000 Seats 150

On this rough case basis there seems to be a case to increase the HR seats by 12. (However see later comments re need to increase by 24 for Senate purposes.)

Lower enrolments per seat hopefully would give members an easier time in their representative duties for their constituents.

18)

Eligible voters 30 June 2009. Plus 12 seats. $15125000 - \text{by } 162 = 93000$ voters per electorate. Plus 24 seats. $15125000 - 174 = 87000$ voters per electorate.

In view of our fast growing population perhaps there is a case to reconsider the formula to provide better voter numbers per seat.

Impact upon the Senate.

As the requirement is to have as near as possible twice the number of HR members to the Senate the present number of Senators would have to be increased by six. One to each state with the territories retaining their present number of two Senators.

There would be a difficulty for elections in that each state would have 13 Senators and as at each election half of the Senators retire one election would have to six retiring and the next seven retiring or vice versa. This obviously affects the quota required for election at the elections. Six Senators = 14.29%. Seven Senators = 12.50%.

I do not know the constitutional implications involved here of having six and seven Senators being elected at alternative elections but suspect it might be acceptable on purely practical grounds if it is accepted that there was a need to increase the number of HR members.

Overall though, the Senate position could be overcome by increasing the number of HR members by 24. This would mean that the state Senators would be increased by two to fourteen with seven being up for election at each half election. Quota 12.50%.

For double dissolution elections the quota would be 7.7%

I would guess that political considerations impact upon the overall position.

Overseas jurisdictions.

I would point out that if the New Zealand MMP system was adopted you would have single member large enrolment numbers territorial members made up by the List members that would provide, depending upon where they were allocated to, smaller overall voter per member representation.

The Senate's representation would also be an issue here.

I appreciate that there is constitutional difficulties in implementing such a system for Australia.

A Royal Commission or Citizen's Assembly for Electoral Reform could look into these matters in depth provided they are supported by expert advice!

19)

Recommendation.

(Qualification - I do not have the necessary technical or legal skills to consider this question properly or in depth.)

Consideration should be given to on the question of increasing the membership of the House of Representatives by 24 and the Senate by 12.

Question 5 (j)

Territory Representation. Size/representation.

The Royal Commission or Citizen's Electoral Assembly, mentioned above, should also address this question.

Dedicated Electorates for Indigneous Australians.

Any proposal for such a provision is tokenistic. Our position and history is not the same as, for example, New Zealand in regards to indigenou representation.

Dedicated electorates for overseas electors.

Oversea electors have the right, if they wish to, vote in their electorate of departure. I think that that is a sufficient provision and there is no need for a special electorate for them.

Question 5 (k). Elected representatives who resign early.

House of Representatives.

A HR member who resigns because of mental incapacity, incapacity due to ill health, or extreme and genuine family matters should not suffer any penalty for their resignation. Obviously a by –election because of death is another matter altogether.

A HR member who resigns because of other employment whether for the government (e.g. Diplomatic service) or for private industry or because their party did not win the election should have to pay a contribution towards the cost of the by-election which would be worked out on the length of time they had to go to the next election.

Senate.

Replacements for a party member who resigned should be simply as presently provided for.

CHAPTER 6: Electoral Management bodies – structure, functions and independence.

Discussion points. 6.50. Electoral Management.

Question 6 (c). Are their functions that the AEC should be performing, which it is not?

The full management of Postal vote applications. Postal Voting system should be resourced so that the promotion and administration of Postal Voting is conducted by the Australian Electoral Commission. (Refer to Annexure 1 hereto.)

Question 6(g). The Electoral Act should include provisions –

- 1) specifying the independence of the AEC; and
- 2) allowing the JSCEM to scrutinize the proposed budgetary allocation to the AEC.

Behavioural and Institutional independence should apply. The principle that the AEC should act independently of political influence should always be upheld.

General comment on Chapter 6 and some of the remaining questions asked.

*** For the Federal electoral laws, in the final analysis, the development, subject to appropriate consultation, should remain with the Parliament.**

*** Australia should work towards one single Australia – wide Electoral body, divided into state divisions, with federal and state responsibilities.** The federal approach should be adopted as much as possible but should have sufficient flexibility to engage with the particular and unique issues at the state level. Wherever possible, for its creation, a standardized and common approach should be adopted by means of cooperative federalism.

The structure would provide for state and territorial divisions for administration at state and territory level. I appreciate that there could be political, constitutional, federalism and administrative difficulties for this to occur. Cooperative federalism should apply here! If the above is not adopted cooperation between the various jurisdictions should be encouraged at every opportunity through the ECA.

*** Administratively speaking –**

The AEC should – 1) become a body corporate so that it can enter into contracts in its own name for identity and operational purposes.

- 2) be able to sue in its own right for those rare occasions when it will have to act in this area.

21)

*** AEC Office per electorate.**

Despite the efficiency and modern technological arguments for the view that you do not need an AEC office for representation in every electorate I think it should still apply-

- 1) you do need local knowledge for effective administration. For example – the importance of the naming of polling booths with historical meaning to the local voters can be ascertained by the local DRO more readily than someone who is a long way off;
- 2) if there was one single body advocated above there would be more references to it for – federal – state and other matters. E.g. Union elections, enquiries for enrolment. A greater role would generate more enquiries; and
- 3) An AEC office in each electorate also flies the flag – particularly for older people who are not savvy with technology.

CHAPTER 7: Enrolment and participation.

7 (b) Introduce automatic and automatic update of enrolment details.

7.44 seems on the face of it a good way to go. However learn from the New South Wales Smart Roll programme that is being implemented. (Refer NSW Hansard. Pages 67-69. Legislative Council. 12 November 2009.)

Provision should also be made for online inquiry and processing transactions so that people could see if they are enrolled via their unique roll number (which should be made known to voters), if already known, or by name and/or address search.

The paper based provision, as a back up, would still apply for older people and those who wish to enroll who might not be known to government bodies.

A notification must be sent either by email or letter. Unfortunately, as enrolment is compulsory there are no privacy issues involved. Under our law a person must be enrolled.

In the final basis you are not going to get everybody. Largely you will mitigate the situation by enrolling most of the younger people.

7 (c) Normal (technical and other) integrity, testing and verification procedures together with sample – 1) manual, 2) postal checks and 3) limited verification door knock canvassing.

7 (d) Principles for enrolment should be set out in the principal act and substantive detail in the subsidiary operation act.

7 (g) Youth.

Provisional enrolment age should be lowered to 16 years to provide an incentive if automatic enrollment is not implemented. It will also catch more young people.

7 (h). 1) Close of rolls. 2) Enrolment on Election Day.

1) Reinstate the 2006 previous arrangements for the close of rolls.

2) If feasible (staffing and administrative issues) introduce it but subject to normal requirements. If there is any deficiency in the documentation treat it as only a provisional/declaration vote pending rectification of the matter. Time limit would apply.

General comment on proof of identity. 7.72.

Tiers 1, 2 and 3 should be expanded as set out.

However the principle of a more rigorous identification than the previous arrangements should apply.

7 (i). Harmonisation. The comments as outlined in 7.103 to apply.

7. (j). Privacy considerations.

7.109.

Recommendations ALRC report: -

Recommendation 16-3 of the ALRC report should be adopted if it has not already been done.

The recommendation that the exemption from the Privacy Act for registered political parties be removed.

Everyone should be treated equally!

CHAPTER 8. Registration of Parties and Candidate nominations.

8 (a) In basic framework, generally yes, but it needs work on harmonization which can only be obtained by cooperative effort.

8 (b). Changes. Some – not exhaustive.

* Reduction in the number of members required for a party from 500 to 200. 500 is unfair on “independents” because they can have “localized’ concerns that can reduce their pool of members.

* 1) Federal registration deemed to be sufficient for State registration.

2) Registration fees be standardized at \$500 per application.

3) A party needs to be registered six months before the actual or expected date of election with annual proof of continued eligibility.

4) Members must be on the electoral roll.

5) The New South Wales requirement that a Form 19 should be introduced to ensure membership of a party is genuine and can be checked up upon.

6) A Party Constitution must be provided setting out the requirements as required in the ACT.

7) Party –hopping should not be allowed. The action as outlined in 8.38 should be taken.
)

These would have to be introduced by cooperation with the states and territories.

* All candidates maybe provided with a copy of the commonwealth electoral roll (if not already done) subject to the strictest privacy considerations. Such rolls not to be used to update data base for political party mass personalized postal communication campaigns.

* Under regulation a party, subject to a satisfactory constitution, once registered be deemed to be a body corporate with perpetual succession, with the power to own property and capacity to sue and be sued. Some arrangements would have to apply for transition of its affairs if a party becomes deregistered. The body corporate status should not stand.

Regulation of candidate preselections. 8.29 – 8.31.

Point 8.29. The items outlined stand.

The points in 8.31 – the first three dots the items should be implemented.

The fourth point should be amended, as a trial for two elections, to provide that community preselections apply for lower house seats not held by the government of the day. However, a final right should be available to the political party not to have to accept the selected candidate where stacking or some other allied concern has arisen.

This could provide some reforming emphasis by being able to draw on the community in areas where the opposition is weak on the ground to provide for a fairer election contest. After all the government has the advantage of incumbency. This option should also be optional for government seats.

8(d). Candidate nominations.

*** Multiple nominations. Of say, of more than two nominations for the same party in the Lower House should not be allowed.**

The absurd situation for the Bradfield Federal By Election on the 5 December 2009 where the Fred Nile's CDP party is nominating nine candidates for the election. This, while legal, is an abuse of the nomination system.

* The number of candidates has blown out to 22 with the resultant confusion for the voter, not to say an increase in the informal vote. Generally speaking, the more candidates you have the greater the informal vote.

* In the old days the country Party used to run two candidates to gather support from different geographical areas. For party tactical purposes I would leave a provision to allow for two candidates but no more.

* Voters expect that there will only be one candidate per political party on the ballot paper.

* A common approach for **residence requirements** should be worked out with the various jurisdictions. Perhaps the New South Wales approach of a residency period of one month (I believe) would be a starting point. However, I would look for at least six months as being the standard.

*** As part of the nomination process all candidates are to provide a written statement, on a compulsory basis, of up to a maximum of 500 words for their candidature which is to be displayed on the AEC website.**(Something like the NSW Local Council elections provision- though this is not compulsory.)

*** Child related conduct declarations (like in New South Wales) should be introduced in all jurisdictions to prevent unsuitable candidates to be nominated.**

*** Unsuccessful candidates should be refunded half of their nomination fee** upon completion of their candidate returns as an incentive to complete the form.

Question 8 (f). Candidate qualifications: Section 44 of the Australian Constitution.

Referendums are hard to have carried in Australia. If you are to proceed down this road you should go for broke – i.e. a complete repeal of the section, with Parliament being able to enact ordinary legislation on the topic of candidate qualifications. Here only Australian citizenship would apply.

25)

If not, generally the comments made in 8.50 and 8.57 are noted.

Question 8 (g). E-business. Outlined in 8.61.

Every opportunity should be put in place to take advantage of this technology.

CHAPTER 9: Education for Electoral Participation.

Question 9 (a). Electoral Education Programs.

From reading the Green Paper there seems to be generally a wide range of programmes or action statements for proposed courses of action in place. I am not certain about which are the most effective. A broad or specific target approach on its own is not the way to go.

A combination of both should be implemented.

Recommend the strategies as outlined in 9.23 and 9.26 as appropriate be implemented.

Question 9 (b). Should electoral education be mandatory in all Australian schools?

Yes.

Question 9 (c).

New electoral education strategies for: -

Indigenous Australians.

The targeting of indigenous groups who have lower enrolment and electoral participation rates is noted and **the programme as outlined in 9.40 is to be commended.**

Youth.

Short term field work should, particularly, be funded through the AEC to Youth groups for the year prior to an expected federal election. For that matter, these staff could well be long term and could engage in and further develop opportunities in the type of activities, say for youth, as outlined in teaching in 9.31 and other items in 9.32. However these agents should be given flexibility to work amongst these groups.

If considered appropriate for these areas the UK approach of pilot studies and evaluation of new youth engagement strategies should be formalized and implemented.

26)

Migrants.

In is in only recent federal elections that language specific polling booth workers have been employed in electorates that have large numbers of people from non-English speaking backgrounds. This programme should be permanent and widened as appropriate.

The strategies as outlined in 9.46 should be implemented.

Homelessness.

Further research and active encouragement strategies along the lines of 9.52 should be implemented here notwithstanding the comments made about participation and address issues. However cost effective factors might affect this area.

Again the international strategies should be investigated.

CHAPTER 10: The campaign.

Question 10 (a). Regulation - new media.

It will be difficult to deal with the new technology on a fair and equitable basis between it and the old media.

A “light approach” should be aimed at with the development of voluntary “sectional’ codes of conduct. However, as a back up, the authorities should have the right to take a “harder approach” subject to legal and technical feasibilities in terms of 10.32.

As you point out other forms of regulation could be considered in the future as campaign practices using new technologies develop.

- 1) In this regard the JSCEM should be charged with examining such technologies that might have developed at each enquiry after a federal election.**
- 2) The AEC should also be empowered to examine such technologies and be able to report to the AEC on its implications for the running of a fair election.**

Do Not Call Register and Email Spam. 10.26. Page 147.

Political parties should be subject to these restrictions by extending the ban in the relevant act, expressly, to political parties. People value their privacy and do not, necessarily, want to be bombarded with political campaign material. Of course, this would be on the basis of “voluntary turnoff by the voter”.

Media Authorisations.

Here the words or text should be in the same volume, tone and speed etc as the main advertisement.

(10.52.) The electoral Act should be amended to provide greater certainty about the types of material that require authorization.

Question 10 (b) Use of public resources for political campaigns.

It is good to see the comments in 10.35 and 10.36.

1) The limit on the number of **postal vote applications** funded from printing entitlements would not stop a party from producing more from their own resources.

Political parties should be banned from being involved in the Postal Voting area. This is more properly a function for the AEC. Accordingly no printing entitlement should be provided for this item.

2) **Members use of travelling allowances. 10.37.**

The date for commencement should commence from the date of the issue of the writ for the election not the parties official launch.

Reforms -Incumbents – public resources – not available to other candidates.

3) **The reforms as outlined in 10.40 should all be implemented:-**
a) **expanding the reforms as outlined in 10.36;**
b) **independent audits once in every electoral cycle; and**
c) **setting up an independent parliamentary entitlements body.**

28)

Question 10 (c) “Continuous campaigning.”

1) Public funding should only be available for these activities on a “declining dollar basis” within certain periods of the last official date for an election OR

2) Applying 10.43 –

* A voluntary code campaign period (though I suspect it would not hold where party self interest holds!)

* legislatively designating a specific period as the campaign period – as per the third dot point in 10.43.

(Length of Official Campaign period – See Chapter 11. 11.1. Page 29.)

Question 10 (d). Media blackout.

In view of the difficulty in applying the black out ban to the new media cease the blackout entirely.

Clarity in the operation of electoral advertising laws.

(10.52.) The electoral Act should be amended to provide greater certainty about the types of material that require authorization.

Question 10 (e). Truth in Advertising laws.

A difficult area but one that should be addressed to some degree. Notwithstanding the limitations of **the South Australian approach should be considered** as a “moral barrier”. However, it would require a separate judicial oversight so as to not compromise the neutrality and impartiality of the AEC.

Question 10 (f). Neutrality of Polling Booths.

1) The major parties should not be able to hog the entire perimeter of a property with their advertising material. A reasonable space should be available for other parties.

2) Election material for the outside (and inside the property up to six meters from the entrance of the polling place) should be of one standard size such as applies in New South Wales. (Point 787, 10.72 page 158).

The reality is that the first come first served basis is that which will apply and attendance is within the area of the political parties.

Question 10 (g). How to Vote cards.

10.78.

All How-to-Vote cards should be registered with the AEC prior to Election Day as occurs in New South Wales.

10.79.

A Code of Conduct, developed by the AEC, should have to be signed by all party workers at a polling booth on Election Day. Failure to display a certificate on a worker that they have signed the Code of Conduct should be subject to a penalty of some kind.

Question 10 (h). Harmonisation.

Cooperative effort on a voluntary basis between jurisdictions should apply.

CHAPTER 11: Polling.

**General comment on Commonwealth arrangements. 11.1
Length of the official campaign period.**

I think that there should be an extension in the time period from not less than 23 days nor more than 31 days by 7 more days. Things, as they stand, for election campaigning can be too rushed especially when a minimum period is promulgated.

Question 11 (a). The rise in early voting.

Action to be taken in response to ? Yes.

Prepoll.

1) **They should be processed and counted as ordinary votes.** Provision would apply for those voting in their own electorate.

The number of such votes should be published before the count starts. Issue and the number that voted.

2) **Flexibility should be introduced** by means of the **option of electors** who will be absent or expect to be absent from their home division on polling day to **apply for a postal vote**, rather than have to cast an absent vote on polling day. Appreciate that this will require extra ground for admission to this facility.

Question 11 (b). Postal voting. Applications.

Logistic issue. (11.17.)

11.19. **Allow the date of the witness signature** on the postal vote certificate to be the key determinant on the validity of postal votes, rather than the postmark date.

11.16. Political Parties involvement in the postal vote application process.

For the reasons and the position set out in Question 6 (c) and Annexure 1 herewith and your comments in 11.25 **the full distribution, administration and processing should be done by the AEC.**

However, if it is seen that there is still a place for political parties then the application should be forwarded to the AEC not to a political party address. The other points in 11.28 also to apply.

11.21. Defective applications.

11.23 Remove the requirement that an elector's signature on all postal vote applications be witnessed.

Allow electors to lodge postal vote applications online or by electronic means. Make the form more user-friendly. (As per the JSCEM recommendations.)

11.27. Generally.

Allow electors to lodge postal vote applications online or by electronic means.

11.29. Eligibility.

On a voluntary basis allow all voters over 70 to apply for the general postal voting provisions. Their right to attend a polling booth is to be maintained.

Question 11 (c). Electronic voting.

I suppose there might be a case, in theory, to extend electronic voting across Australia for a quick counting result, voting integrity and administrative purposes. I think there would be a huge logistic task in providing it. However there would be problems as outlined in 11.36. **The cost would probably be prohibitive at this stage.**

31)

I do not know the outcome of the trials for the visually impaired electronic voting though, I suspect, there would only be a small number using the facility and cost considerations would come in here.

Whilst I would like to see electronic voting come in **I do not feel that:-**

- 1) there are sufficient safeguards in place;**
- 2) the logistic task to mount it would be to big at this stage;**
- 3) older voters would probably distrust the system;**
- 4) the lack of ability of scrutineers overseeing the process; and**
- 5) the cost involved**

to recommend its implementation.

However the matter should be kept under review in the light of technological advances, greater more everyday use of this technology by voters and the experience in overseas jurisdictions.

(In passing I see its use in such areas as applications, returns and administrative matters associated with electoral affairs.)

Question 11 (d). Multiple voting.

Dash point one.

General comment.

11.43. The low rate of referral to the AFP is noted. It seems the confusion of older people is the main cause of multiple voting.

11.46 and 11.47. I note the proposals but agree with the JSCEM views citing reservations about the cost, infrastructure and security of the system as well the potential for bar codes to be misused, lost or ignored.

Whilst the issue is of concern to some community groups given the relatively small number of cases and the need for such groups to prove widespread abuse there is no need for substantive reform.

Dash point two. Provisional votes.

General comment.

Proof of identity really lies in the area of enrolment where a signature is obtained that could be used for matching and confirmation of identity. However it could be used to lighten the AEC administrative burden.

When application is made identity could be requested but not made compulsory.

This would be to cut down on administrative checking work. If people did not have identity you would then check the signature which, assumably, would be digitalized on a computer base.

Accordingly I would recommend replacing the current arrangements with a requirement that the AEC check provisional voter's identities, where they have not been able to produce identification, by matching signatures on provisional votes envelopes with digitalized initial enrolment form signatures.

11.57 and 11.57.

Provisional voting for certain persons removed from the electoral roll.

For the two points made against the current provisions in 11.59 support the first two points in 11.60, i.e. –

- 1) Reverse the legislative amendments introduced in 2006; or**
- 2) Introduce a new provision allowing provisional votes to be counted if the voter has moved addresses within the same electoral division.**

Question 11 (e). Requirement for everyone to provide identification for voting on Election Day.

No. Mainly for the reasons outlined in 11.63.

Question 11 (f). Location of Polling Booths.

General comment.

It is noted that provision has, in the past, been made at international airports. Perhaps further research should be made to identify groups that could benefit with special provisions as recommended by the JSCEM for mobile polling booths being extended to cater for mine workers and persons residing in aged care facilities.

Early voting polling booth locations. To the extent that early voting is convenient but should not be to lightly taken I think that for most city and major regional electorates there should only be one prepoll voting centre in the electorate. However this should be located in a convenient location for easy access by people. This could well be a shopping mall etc. For other electorates there is a case for more than one centre because of the physical size of the seat.

Homeless people.

As cited in 11.60 I support the JSCEM recommendation that homeless people escaping from domestic violence should be a ground for applying for prepoll or postal voting.

Indigenous communities.

As outlined in 11.69 I support closer liaison with Indigenous elders and community representatives to determine the most appropriate location of polling places.

11.70.

Overall I support the JSCEM recommendation of a broader discretion to be given to the AEC “to allow mobile polling and/or prepoll facilities to be provided at such locations and at times’ as deemed necessary for the purposes of facilitating voting.

Question 11 (g). Do you think compulsory voting should continue in Australia?

General comment.

I note from 11.71 that 32 countries have compulsory voting but none of these include the major democracies of India, the UK, Canada, South Africa or the USA.

Participation should be by voluntary consent not the threat of a fine if one does not attend a polling booth with the view to casting a vote. After all, one can cast a blank or otherwise informal vote.

Democracies have to earn the trust and active participation of the voters. The system should not rely on the apathetic and ignorant to be involved. I know that this is idealistic but the present system seems to be an abrogation of people’s responsibilities by them taking the view that you leave it all up to the political parties.

From a philosophical point of view I would support non-compulsory voting. I support the points made in 11.77,78,80,81.

My answer would be personally No.

However there is no way in which it will be abolished in Australia!

I do, however, support compulsory enrolment on the grounds that people should not be denied the right to vote if they want to.

Question 11 (h). 1) Harmonisation of polling practices – 2) Timing of elections federal, state and territory (local government?).

1) As much as possible in all areas as outlined in 11.87. I guess that this would have to be done by cooperation and goodwill. These could have constitutional, political and administrative practices etc but nonetheless should be attempted.

One area re polling booths and electoral officials.

For all elections –

A) the polling booths are to have a common name rather than different names for different elections; and

B) the officials Australia wide should all have the same name for their office rather than different names for different elections. (E.g. AEC and NSWEC.)

2) For the reasons outlined in 11.86 elections should be held at different times.

CHAPTER 12. Scrutiny of ballots.

Question 12 (a) Prepoll votes.

I support the view that :-

1) pre-poll votes be cast in an elector's home division be treated as ordinary votes for the purposes of the count;

2) allow all pre-poll votes to be issued as ordinary votes;

3) electors to sign a declaration at the time of voting indicating that they are entitled to a pre-poll vote;

and for out of division pre-poll voting

3) allow his or her enrolment to be confirmed electronically on the spot at the early voting centre.

(As pointed out in 12.19 this would eliminate the need for votes where the enrolment is so confirmed to be subject to preliminary scrutiny post-election.)

As pointed out in 12.12,13,14 this would improve the situation for the count on election night.

Question 12 (b). The National Tally Room (NTR).

General comment.

The NTR when telecast to the general public over the TV channels is, for most people, the main source of viewing the results. There is an air of excitement and of atmosphere about it which provides a unique place for it notwithstanding the development of the VTR.

For the reasons outlined in 12.31,32 and the JSCEM recommendation support the retention of the NTR for federal elections.

Question 12 (c). Which forms of electronic vote counting should be used at federal elections?

General comment.

Cost would be a factor for an Australian wide system but one that would have to be borne considering the savings made in its application.

At this stage the ACT ICR technology should be considered subject to the processes outlined in 12.8 and its cost effectiveness. However security of the system would have to be the prime consideration.

SENATE COUNTING COMPUTER APPLICATION which is provided for the distribution of preferences. This is a complex process.

General comment.

Scrutineers sometimes wonder how they can possibly follow this complex process. Whilst they cannot follow the computer application in its actual work -

Scrutineers should be supplied with flow charts by the AEC outlining the process as to what is going on!

This would in some way go to engendering more confidence in the system!

Senate Surplus Transfer Value.

The "Weighted Gregory Transfer method" should be used as Western Australia has for their Upper house.

Question 12 (d). Informality rules.

All interested parties are to be adequately informed of the position by the provision of comprehensible information in understandable form.

Question 12 (e). Automatic Recounts.

Support the recommendation of the JSCEM/AEC outlined in 12.49(Result within 100 votes.) for public confidence building purposes and simple justice for the candidates.

Chapter 13. Dispute Resolution.

General comment.

Given its context it seems to me that it has worked well but can be seen to be unfair in some aspects if you are a failed petitioner in terms of its “limited intervention”. Perhaps some moderation around the edges through some discretionary aspects might help.

Question 13 (a).

Costs.

Require the Commonwealth to bear all costs in electoral proceedings, except where the proceedings are summarily dismissed as being vexatious or frivolous.

Procedural.

Publish publicly available guidelines for the drafting of a petition to the Court of disputed Returns to assist potential litigants.

Time limitations.

Confer a discretion on the Court to extend the time within which a petition can be lodged if it considers it appropriate in all the circumstances of the case.

CHAPTER 14. Compliance and enforcement.

Penalties.

- 1) If political parties are incorporated higher financial penalties should apply to them.
- 2) Adopt the Canadian system with their graduated approach (14.18).
- 3) Should be reviewed in terms of their dollar value cooperatively with the states and territories to try and obtain uniformity.
- 4) Reduce the amount of public funding as outlined in 14.27.
- 5) Retain criminal offences.

Prevention.

As noted prevention is a better way to go.

Infringement notices.

As 14.30 notes use them for a broader range of alleged offences.

Public reporting of breaches.

Broaden the power as outlined in 14.31.

Undertaking enforcement.

Adopt the Canadian procedure with a separate statutory officer.

General comment on harmonisation.

Harmonisation seems to be a strong feature of the Green Paper and one that is to be followed where practical. Whilst there are a lot of constraints I suspect that it will only be through cooperation through formal (Cooperative federalism- Ministerial Councils etc) and informal (Electoral Commissioners council) avenues that things will be achieved after this Green Paper is processed to a further stage. Politics and partisan issues will intrude but seeing that this is an important area one hopes that the best standardized provisions for the people of Australia will prevail.

However, one area that I hope that will not be harmonized is that all elections, for all levels of government, will not be held on the same day for reasons outlined or commented upon in this submission.

OTHER SUGGESTIONS.

Ballot Papers.

*** The Robson method should be considered for the printing of the ballot paper as they have in Tasmania.** (I appreciate that this has implications for How-to-Votes!)

*** Ballot Paper design, form and outline.**

Introduce a “1 only “Above-the-Line box on top of the House of Representatives ballot paper with a registered ticket. The normal provisions would then apply Below-the-Line

This would standardize the forms between the House of Representatives and the Senate. **Also it would go some way in aligning the states that use the 1 only method (e.g. NSW and Qld) to reduce the informal rate.**

38)

***Death of a candidate between nomination and closing day.**

I am not aware of the technical position here but I suggest that this be looked at to consider if the provisions are in order for today's requirements. Can they just be dropped off?

Other items.

I suspect that the following items might be out of your Terms of Reference but I would like to put them in.

*** Terms of the Parliament.**

The Commonwealth term should be four years with a fixed term of three years and the government being able to call an election, at its choosing, at any time in the fourth year. (Basically the Victorian provision I understand.)

The government would only be removed in the first three years by a vote of no confidence or lack of supply or by voluntary agreement of the Parliament.)

*** Direct Democracy.**

Recall and Citizen's Initiative Referenda be introduced along the Swiss model.

Refer to Annexure IV.

Annexure 1. Question 6 (c). Postal Voting.

The promotion and administration of Postal Voting should lie entirely within the jurisdiction of the Australian Electoral Commission (AEC) who should be resourced to carry out this task. **Why?**

1) For the integrity of the postal vote system there should only be one connection between the Voter and the AEC. Postal votes should be controlled within the confines of the arrangements with the AEC for secrecy purposes for the ballot.

2) At one time the Standing Order Postal Vote list for Postal voters for a Division was available to political parties and independents to enable them to communicate with these postal voters. However, I understand that since the passing of the Federal Privacy Legislation this material is not available. This intention of privacy reinforces the point in 1) above.

3) With the major parties being able to distribute their letter box communication in regards to Postal Voting they have an unfair advantage over all other political parties and independent candidates. As well the design of their literature, at times, has been such that it looks like it is an official government letter and people have been confused and think it comes from the Electoral Commission. There should be a level playing field for all political parties and independents in this area.

Unfortunately, there has been a perception, in some minds, that there can be interference in this process with the major political parties having an unfair advantage.

(Submission by Eric Jones to the Joint Standing Committee on Electoral Matters Inquiry into the 2007 Federal Election. 16 May 2008.)

Reference should be made to an article entitled “System lets parties hijack postal votes”, by Peter Van Onselen in the Weekend Australian of the 17-18 October 2009,

About Postal votes.

Mr. Oneselen makes the point that Australia is the only democratic country in the world that allows political parties to be involved in the postal voting application process.

40)

Amongst other things, comments are made about:-

- 1) completed postal vote applicants being contacted through that source;
- 2) databases (ALP – Electrac. Liberal- Feedback) being cross checked to applicants;
- 3) a quote from Kelly about the potential for a party delaying forwarding a completed postal vote application to the AEC if the applicant is identified as a non-supporter; and
- 4) the privacy of voters being infringed.

Kelly is also quoted as saying “While political parties continue to be allowed to be involved in the postal voting process, the integrity of Australia’s “independent” electoral administration is undermined.”

RECOMMENDATION

**The promotion and administration of Postal Voting is to be resourced and conducted by the Australian Electoral Commission alone; or
If political parties are to have a role the application is to be forwarded directly to the AEC.**

Annexure II. INFORMAL VOTE.

(Part submission to JSCEM 2007 Federal Election Inquiry by E Jones.)

It was pleasing to see the reduction in the House of Representatives Informal vote between the Federal Elections in 2001/04 and 2007 as listed below. However it remains still too high. As such it denies voters their right to vote in an effective way.

House of Representatives.**Australia.**

Year	2001	2004	2007
	4.81%	5.18%	3.95%

New South Wales

Year	2001	2004	2007
	5.42%	6.12%	4.95%

Some Electorates (Not comprehensive.)

Year	2001	2004	2007
Banks NSW	6.82%	7.35%	6.36%
Blaxland	9.78%	10.70%	9.49%
Bradfield	3.76%	4.35%	3.99%
Lowe	5.80%	6.55%	4.95%
Reid	11.08%	11.71%	7.57%
Bass Tasmania	4.27%	3.90%	3.25%

From my observations at elections I recognize that the more candidates you have on a ballot paper the higher the Informal vote. However there are other things at work. Such items as for example: –

- 1) the influence of Literacy and Numeracy levels in an area;
- 2) whether English is the language spoken in the home;
- 3) the general inability to understand the instructions depending upon the complexity of the voting system, E.g. the difference between Optional Preferential Voting at the State election and full Preferential Voting at the Federal level; and
- 4) cultural aspects.

By and large the informal ballot papers, from my scrutineering experience fall into:-

- 1) Blank ballot papers by people who do not want to vote but attend the polling booth to have their names marked of the roll or simply find the matter to hard to do;
- 2) Deliberate informal votes with messages to that effect on the ballot paper;
- 3) Marks on the ballot paper; and
- 4) Not listing the full numbers required on the ballot paper,
An example here would be the Number 1 only because of confusion with the State election requirements.

Because I live in Banks I would like to make some comments about **some polling booths** (not exhaustive) there.

Informal rate as a %.

Election Year.	2004	2007	+/-
Bankstown (Banks)	11.69	10.59	-1.10
Bankstown Central (Banks)	12.67	10.12	- 2.55
Bankstown South	12.66	11.26	- 1.40
Bankstown West	10.86	11.06	+ 0.20
Condell Park	12.31	9.79	- 2.52
Punchbowl South	15.66	12.37	- 3.29
Revesby	10.02	9.82	- 0.20
Riverwood North	10.45	8.44	- 2.01

By way of background Banks inherited some of the old Blaxland polling booths in the Bankstown area. This area is heavily multi-cultural. As a result the AEC employed Arabic and Vietnamese polling booth officials who were of help to voters in instructing them in how to vote. As well promotion literature in these languages, newspaper articles etc during the election period were used. This was all positive and the AEC is to be congratulated for its initiative and work in seeking to meet the special needs of the voters in those areas.

Of course, the major parties, but particularly the ALP, produced literature in the language of the voters which was of help.

Notwithstanding all of the above the Informal rate is still too high given that the informal rate for Australia 3.95%, New South Wales 4.95% and the overall Banks figure of 6.36%.

Greater educational programmes need to be implemented before election time by people speaking the languages used in their homes in the voting and general election procedures.

43)

As part of public funding a proportion of it could be used by the parties in educational programmes to reach people –

1) in multicultural areas by employing people who speak the major “other” language where there is a high informal vote; and

2) to reach young people by the employment of Youth Political Education Officers,

about the voting and electoral system and the democratic system.

These people would be employed mainly in the lead up time to the Election on a part-time basis. They would have to be, politically speaking, completely impartial in their presentations.

To reach their targeted group flexible strategies would have to be used such as visiting factories, ethnic youth groups etc, ethnic churches and prayer halls, schools etc to conduct their programmes. Of course, all with the cooperation and consent of the bodies concerned.

Whilst I appreciate that Divisional Officers conduct School Programmes they cannot reach the adults. Again it could be said that literacy and numeracy problems are beyond the control of these types of programmes.

To make it easier for them I have a suggestion further on to make the voting system more friendly to use.

Why should the political parties do this type of work?

To be seen to be putting something back into the democratic process. There is a lot of cynicism about politicians and politics out in the broader community and perhaps this might help in building up their position in the eyes of the community.

However, if the above is not acceptable, at least try it on a trial basis by funding and having the AEC employ such people for the year before an election.

As well the initiative programmes adopted at the 2007 election should be expanded. No doubt, evaluation was done by the AEC and they should have more to say about this aspect of their work.

44)

RECOMMENDATION. On a trial basis –

*** through public funding have political parties employ part-time political and youth political officers who speak the major Non-English language in high informal rate areas to conduct voting and general democratic educational programmes for the year prior to an election.**

*** alternatively, if the above is not accepted, have the AEC employ such positions to carry out this work.**

Devote more resources to combat Informal voting.

Annexure III. Chart on some Parliaments. Thresholds.

Parliament.	Petition Committee	Proportional Representation	Election Threshold	EU Committee	Legislative Committee
Denmark	No	Yes	2%	Yes	Yes
Estonia	No	Yes	5%	Yes	Yes
Finland	No	Yes	None	Yes	Yes
Sweden	No	Yes	4%/12%	Yes	Yes
Germany	Yes	MMP Part Proportional and Plurality.	5%	Yes	Yes
Norway	No	Yes	4%	N/A	Yes
Scotland	Yes	MMP/ AMS	Defacto. Quota	Yes	Yes
Ireland	No	Yes	Defacto. Quota	Yes	Not automatically referred.
United Kingdom	No	Plurality	None	Yes	Yes usually
Northern Ireland	No	Yes	Defacto Quota	N/A	Yes
Switzerland	No	Yes	None	No	Yes

Legislation Committees – main work legislation.

(Part of a report by E Jones to NSW Chapter of the ASPG. 2008/09.)

Annexure IV. DIRECT DEMOCRACY.

(Part report on a visit by E Jones to the Swiss Federal Parliament in September 2008.)

Although Switzerland has representative democracy forms of Direct Democracy are used frequently at Federal, Cantonal and local level.

These forms are: - 1) Initiatives; and 2) Referendums (but not on a Recall basis after a certain period?) In this regard voting is held on a quarterly basis, by personal or postal ballot on federal proposals.

Initiatives.

Citizens may request that the People decide on an amendment they want to make to the Constitution. At the Federal level, unlike at Cantonal level, it is impossible to request a new law or a new amendment. 100,000 voter's signatures must be collected within 18 months.

It may take the form of a general or as a formally worded proposal. The authorities sometimes respond to an Initiative with a direct counter-proposal which is generally less far-reaching. This means that a "Yes" vote could occur on both questions so there is a third "deciding question" which determines which will proceed.

Initiatives originate from the People. They are regarded as the driving force behind direct democracy.

Referendums.

Voting and Referenda.

Mandatory Referendum applies to all amendments to the 1) Constitution; and 2) proposals for membership of specific international organizations. For 2) E.g. In 2002 to become a member of the United Nations, 2005 to join the Schengen treaty (Abolition of border controls). The acceptance of such proposals needs a double majority – a majority of the valid votes cast in the country and secondly by a majority of Cantons.

Optional Referendums, if required, are used for new laws and amendments to existing laws and similar parliamentary decisions and some certain international treaties. A popular majority is only required for a proposal to be accepted.

The people are entitled to pronounce on parliamentary decisions after the event. 50,000 voters are required for optional referendums which must be collected within 100 days of publication of new legislation. It is like a veto and has the effect of delaying and safeguarding the political process by blocking amendments adopted by parliament or delaying their effect.

Referendums contribute to political:-

1) **agreement** because they prompt parliament to include as many interested parties as possible in the debate on new laws or legislative amendments to garner support and to work out a compromise position acceptable to a majority. (This lessens the chance of an initiative being raised later on.); and

2) **development of issues.** Even if a referendum is lost because of the campaign people have more knowledge on the issue. The authorities, noting a substantial vote for the initiative, might seek to address the concerns of the losing side.

Even promoting an initiative can lead to the government or the appropriate authorities, choosing to act before an initiative reaches the Referendum stage.

Optional referendums can be also called if eight Cantons request a referendum.

Federal Popular Initiatives adopted or rejected since 1971.

8 out of 109 were successful.

Federal Optional Referenda since 1971.

28 out of 88 were successful.

Some common objections to Direct Democracy relate to making the:-

- 1) administrative work load of the government and parliament harder;
- 2) massive workload on citizens, political parties and interest groups to conduct decent referendum campaigns;
- 3) conservative consequences. (Problems are dealt with/solved but not progressed, when successive votes in the referenda merely confirm the status quo); and
- 4) frustration of losing minorities.

Professor Ulrich Klot in a paper to the Australian Senate Public Lecture series in C1998 (Reform Trends in Swiss Government) said that the problems of direct democracy did not seem, at that time, to be taken seriously by a large majority of the citizens. From then to now it would seem to me that the regular use of the provisions by the citizens is a testament to their support of the system notwithstanding the points made above.

Power of the People.

In my view it could be said that the Parliament and Political Parties in Switzerland have less influence than our Parliaments and Political Parties in Australia because of the Direct Democracy instruments.