

The Accountability Round Table Response to the Second Green Paper on Electoral Reform

The Accountability Round Table

The Accountability Round Table is a non-partisan group of citizens with diverse backgrounds (academics, lawyers, former politicians, journalists, authors) who are gravely concerned with the current erosion of the honesty and integrity of our democratic parliamentary and governmental process.

The Accountability Round Table congratulates the Government on its Green Paper on Electoral Reform: on its comprehensiveness, on the degree to which it canvasses options for improving the electoral system and on the arguments presented for and against the adoption of each of these options. We believe that the matters discussed in the Green Paper are of profound importance for the maintenance and further development of Australian democracy.

The Round Table's recommendations are listed under each chapter heading below.

Chapter 2

Standards, Qualities and Expectation

The Round Table strongly endorses the principles set down for the Australian electoral system. It suggests, however, that the current principles listed under "The Rule of Law" be expressed somewhat differently and be placed in two paragraphs, the second having the heading, "Accountability".

The Round Table suggests that these principles should be stated in the following way;

The Rule of Law

Electoral processes should conform to the principle of the rule of law as it is expressed in the Australian Constitution and as it is practised through the separation of powers between the Parliament, the Executive, and the Judiciary. They should also be governed by clear and unambiguous laws and procedures.

Accountability

There should be genuine opportunities for complaints about the electoral process to be lodged and dealt with in an even handed and transparent way. Electoral processes should be appropriately open to scrutiny and challenge by parties, candidates and voters.

Open political environment

It also suggests that the statement of principle under the heading "Open political environment" should have added at the end of the sentence "...guaranteed." the words: "(including the prohibition of false and misleading statements by and on behalf of candidates)".

Chapter 3

The Legal Framework for Elections

While the round table recognizes that there are significant opportunities for harmonisation between the federal government, state governments and the territories, it strongly agrees with the point made in the Green Paper that harmonisation should not be pursued merely for its own sake. There are, firstly, advantages in having different parts of the system able to innovate in ways that could eventually be useful to the whole system. Secondly, the pursuit of consistency should not place barriers in the way of the search for best practice nor lead to the adoption of lowest common denominator practices (3.19).

The Round Table recognises that there is need for constant review of electoral practices. The legislation also needs to be reviewed in light of changes that have occurred in the circumstances in which it operates, such as changes in technology. The Round Table, however, believes that electoral legislation should be precise and prescriptive leaving as little ambiguity as possible to avoid the possibility of governments and political parties using loosely written legislation for their own political purposes (3.24).

At the same time, to ensure that electoral laws can be easily understood by all citizens and to deal with the current complexity of the Electoral Act, the Round Table strongly supports the rewriting of electoral legislation, in plain language wherever possible (3.25).

Chapter 4

The Franchise

The Round Table makes the following recommendations about the extension of the franchise;

- Every effort should be made to reduce the large difference between the number of people who are eligible to vote and the proportion who do in fact vote (4.19);
- The electoral act should be amended to remove all references to the eligibility of British subjects to remain enrolled (4.32);
- Citizenship is a valid basis for determining who should be allowed to vote (4.35);
- There should be serious effort to reduce the complexity of enrolment procedures for overseas Australians (4.38);
- The voting age for enrolment for young people should remain at 18 years, but, at the same time, every effort should be made to educate young people about the electoral system in preparation for their responsibilities when they do reach the age of 18 (4.43);

“The paper sets out the arguments for and against limiting the right to vote of prisoners and, in our view, they strongly support the conclusion that there should be no limit on that right on the basis of breach of the law”.

The Round Table believes there is considerable scope for harmonisation related to the franchise but that harmonisation should not occur at the cost of innovative practice (4.60).

Chapter 5

Representation and Voting Systems

The House of Representatives

The Round Table recommends that the voting system for the House of Representatives remains unchanged (5.8).

The Senate

The Round Table does not support a threshold system for counting votes (5.64), nor does it support single member constituencies (5.67) as these systems may be less representative and seriously weaken the Senate’s critical role in our democracy as the house of review and debate. They may also disadvantage minor parties. No system will be perfect and there will be times, under any system, when election results will create difficulties. But we suggest that, on balance, the present system offers the best way to ensure that the Senate can perform its critical role.

The Round Table does, however, believe there is a significant need to modify the ballot paper for the Senate to make it possible for voters to express their preferences more clearly while at the same time reducing informal ballot papers. It recognises that a number of alternative proposals have been put forward to achieve this objective, several of which have attractive features. The Round Tables’ preferred option is the one proposed by the JSCEM; that is, to give voters the choice of marking more than one preference above the line. This approach would “retain group voting tickets to distribute preferences if an elector marks a single preference but, if more than one preference were made, a vote would exhaust at the last preference expressed” (5.75).

An alternative proposal, also supported by the Round Table, is that of Senator Bob Brown. It is to abolish ticket voting and to introduce a limited number of preferences above the line (say, five).

The Round Table believes that these changes are urgent.

Other matters

Given that studies of informal voting show that 30 percent of informal votes at the 2004 and 2007 elections were due to the fact that a ballot paper was numbered with a “1” only, changes to the voting system, whatever they may be, should ensure that such a vote in the future becomes a valid vote for the upper or lower house (5.68).

The Round Table recommends that the question of dedicated electorates for indigenous Australians continues to be explored and discussed with representative indigenous groups and leaders. It should particularly be noted that an entrenched and

guaranteed indigenous representation in Federal parliament was a proposal canvassed at the 2020 Summit, 2008 (5.105).

The Round Table believes that where a Senate casual vacancy has arisen due to the death or resignation of a Senator during her or his electoral term, the replacement Senator should be required to face the voters at the next election.

Chapter 6

Electoral Management Bodies

The Round Table strongly supports the greatest independence possible for the Australian Electoral Commission. It believes that the Commission should in all respects report to the Parliament, not the Executive, with a role analogous to the Auditor-General and the Ombudsman (6.21).

The Round Table also supports extensions of the powers of the Commission (6.24).

The Round Table does not support the splitting of functions which are currently the responsibility of the Electoral Commission (6.27). The arguments identified in the paper against such action strongly outweigh the arguments in favour. There does not seem to be any suggestion that anything needs fixing. To split the functions is likely to introduce unnecessary complications and administrative expense.

The Round Table supports a system of funding for the AEC whereby budget estimates would be drafted by the JSCEM, and approved by Parliament, as currently used in budget processes for the National Audit Office (6.37).

The Round Table believes that persons, who have been members of a political party within the previous ten years, should be excluded from appointment to the Commission, an exclusion common in other Australian jurisdictions (6.45).

The Round Table recommends arrangements for appointments to the AEC similar to those adopted by the UK House of Commons, as described in 6.46. In this system the speaker convenes a cross-party committee and appointments are made in consultation with all parties in the House.

The Round Table believes that the terms of appointment for electoral commissioners should be extended from five to seven years (6.47).

Chapter 7

Enrolment and Participation

The Round Table believes that it is of the greatest importance to reduce the numbers of citizens who are eligible voters but are not enrolled (numbering 1,232,935 citizens at June 2009) (7.22).

It strongly believes that the electoral commission should move as quickly as possible to automatic enrolment. The AEC should introduce a system whereby young people when they reach the age of 18, are automatically enrolled (7.38). It is worth noting the JSCEM finding that many young people already believe they are automatically enrolled and do not therefore take any steps to enrol.

There should also be an automatic update of voters' enrolments following an elector's change of address (7.47). There seems little question that the necessary procedures for automatic enrolment are now available. Automatic enrolment is practised in other countries.

In the meantime, while automatic enrolment procedures are being introduced, proof of identity requirements should be modified in line with the options in the Green Paper (7.67), and other attempts should be made to simplify enrolment processes.

The Round Table believes that minimum time requirements for residency should be reconsidered since they clearly disadvantage the young and the homeless. Since the Round Table does not consider itself to be sufficiently well informed about the implications of reducing the minimum residency requirement for enrolment, we recommend that the matter is referred to the Electoral Commission to make a recommendation to the JSCEM.

The Round Table believes that the date of the closure of the roll should be as late as possible while taking into account the necessary arrangement for the management of the poll by the Electoral Commission. It should be possible to enrol up to seven days before the date of an election (7.87)

Chapter 8

Registration of Parties and Candidate Nominations

No Round Table recommendations suggested.

Chapter 9

Education for Electoral Participation

The Round Table believes that education for electoral participation and civic engagement is of great significance. It therefore supports all measures that could be reasonably taken to achieve these objectives.

The Round Table believes that the Electoral Commission, working in conjunction with the Commonwealth Department of Education, Employment and Workplace Relations, should consider the creation of a special committee to make recommendations about the electoral education of 16 and 17 year old students, should an appropriate body not already exist. Some ceremony or event to mark the date at which young people become eligible to vote would also have a useful dual purpose, an opportunity to celebrate their coming of age and an opportunity to provide information about the electoral system.

The Round Table believes that electoral education should be mandatory in all secondary schools.

Chapter 10

The Campaign

The Round Table strongly supports the principle that rules governing the campaign should apply equally to all parties and candidates.

The Round Table believes political candidates and their agents should be required to disclose their party membership or professional positions when making any contributions to media, including new electronic media (10.32).

The Round Table supports a single national regulatory code for campaign activities (10.81) This code should cover all matters discussed in this chapter of the Green Paper, including the use of new media, use of public resources for campaigns, the length of the campaign period, media blackouts, clarity in the operation of electoral advertising laws, truth in advertising, polling booth neutrality, and how-to-vote cards. Inconsistency of regulation in these areas is likely to lead to breaches of electoral law, because candidates and their agents become confused about differences between jurisdictions (10.82). There is also likely to be confusion for voters who could reasonably expect the same arrangements to apply from one type of election to another.

Chapter 11

Polling

The Round Table supports the recommendations of the JSCEM on improving accessibility of the postal vote (11.23).

The Round Table believes that the forwarding of postal votes via political candidates should be banned. It should be a requirement that all postal votes are returned directly to the AEC (11.25)

The Round Table strongly supports the retention of compulsory voting as a key feature of Australian elections. It has consistently led to high voter turnout, and thus, to significant participation of Australian people in democratic elections (11.71). Compulsory voting also avoids the need for parties to devote massive resources to ensuring voter turnout and thus pressure for large extensions of campaign finances.

Chapter 12

Scrutiny of Ballots

The Round Table supports the recommendation of the JSCEM that an automatic recount be undertaken for all elections in which the margin of votes, on the initial count, is less than 100 votes (12.49).

The Round Table does not support a move to electronic voting systems such as touch-screen voting until there is an effective and well-designed process for external scrutineering to ensure the accurate recording of the vote.

The Round Table strongly supports the retention of the Tally Room as a key feature of election night. It is one of the few occasions, other than voting, when citizens can have a sense of participating in a democratic election process. It also gives recognition to the importance and seriousness of elections and of democracy. It enhances the transparency and credibility to the process – we are all watching and those involved in the counting of votes and recording of the result know that. It gives drama to the occasion. The alternative is to reduce the significance of what is occurring to the status of ordinary information be it the weather, the level of the dams, the exchange rate, the price of BHP or Britney lip-synching.

Chapter 13

Dispute Resolution

No Round Table recommendations suggested.

Chapter 14

Compliance and Enforcement

No Round Table recommendations suggested.