

ELECTORAL REFORM GREEN PAPER

Comments from the Electoral Reform Society of South Australia November 2009

The Electoral Reform Society is very pleased that this Green Paper has been prepared.

However it is disappointing that there has not been more promotion of the Green Paper and need for informed debate on the issues raised.

There should also have been a longer period for the Green Paper to be considered. Why a two-month rush to make submissions? There is not going to be time to get any legislative changes in place before the next Federal election.

This submission concentrates on the issues and discussion points as raised in Chapter 5 of the Green Paper on **Representation and Voting Systems**.

This is followed by a discussion on some of the other issues raised in the Green Paper.

Representation and Voting Systems (Chapter 5)

Elections should not be seen simply as contests, as often portrayed in the media particularly by media commentators. Of more importance is achieving effective representation for all those that vote. The wishes and interests of voters need to be paramount and a way found for as many of their votes to be effective as possible.

It is necessary to find the electoral system that achieves maximum effective representation for the electors. Of all the methods of election (first-past-the-post, preferential, proportional representation, etc), the method of election that gives **maximum** effective representation (that is of ensuring as many voters as possible find their votes electing someone) is the quota-preferential method of proportional representation. This method actually sets out consciously to *minimise the extent of vote wastage*.

Quota-preferential proportional representation is widely regarded as the fairest electoral system. All systems of proportional representation ensure that the elected body reflects the views of the voters in a broad sense. Unlike single member systems, there are no “safe seats” where the election result is a forgone conclusion and hence all political parties can safely ignore the wishes of the voters. Every seat is marginal and hence parties are generally more responsive to all voters. Because the quota-preferential system uses direct election, the voters have a choice of individual candidates (rather than just parties or groups). Instead of just one member of each party being pre-selected, and many voters being faced with a choice of “the lesser of two evils”, each voter can typically choose from a range of candidates from each party. This aspect further improves responsiveness to the voters in two ways, especially with the enhancements of the Hare-Clark system (filling casual vacancies by countback and using Robson Rotation for ballot papers).

1. Voters can influence the policy direction of parties. For example, if a candidate with strong views on a particular issue such as environmental policy is elected, this is likely to influence party policy.

2. If a sitting member is not seen to be doing a good job of representing their constituents during a term of office, they run the risk of not being re-elected.

The quota-preferential method of proportional representation should be used for electing all parliaments in Australia.

Questions raised in Chapter 5

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

As indicated above, the House of Representatives should be elected using the quota-preferential method of proportional representation together with multi-member electorates. Ideally the size of the multi-member electorates should be between five and nine-members from each electorate. If the method of allocating seats to each state and territory remains the same, obviously this will affect how many multi-member electorates there are in each and size of these electorates.

While the Senate should continue to be elected by the quota-preferential method of proportional representation, it will differ from the House of Representatives in that the Senators are elected from statewide electorates. Such a change will give a good balance between representation and responsiveness.

The Electoral Reform Green Paper lists the main principles for an electoral system (page 21, point 2.10).

The first point listed is “Representation” with the statement that “Elected legislative bodies should reasonably reflect the voting preferences of the Australian electorate.” Unfortunately single-member electorates, which are the basis for eight of the 15 parliaments in Australia, can not achieve this principle.

An analysis of the 2007 Federal Election results for the House of Representatives shows how the voters fared in terms of representation. Only **54.6%** of Australian voters found that their votes (or preferences) elected someone to the House of Representatives (**Attachment 1**).

It is often assumed that it is only the supporters of the smaller parties and Independents who find that they are not represented in the House of Representatives. But as the analysis of the results show (**Attachment 1**), over two million voters for the ALP found that their votes did not elect anyone to the House of Representatives. This is in spite of the ALP winning more than its fair share of seats (55% of the seats with only 47% of the vote). **Over one third of Labor voters found that their votes were wasted.** These voters were denied the opportunity to elect members of the new Rudd Government, and denied the excitement on election night of knowing their votes helped to defeat the previous Government.

Of course for the Liberal Party the situation was even worse, with 49% of their supporters finding their votes (or preferences) not electing anyone to the House of Representatives.

In the message accompanying the Electoral Reform Green Paper, the Special Minister of State expresses concern that more than 2.3 million persons who were entitled to vote for the 2007 election did not fully exercise their franchise. Of more concern should be the more than **5.6 million** persons who did exercise their franchise and voted, and yet their votes did not elect anyone to the House of Representatives. These people may as well not have voted as their votes had no effect on the outcome. Their votes were wasted.

In contrast to the House of Representatives, **82.5%** of these voters and at the same election found their votes (or preferences) electing a Senator (**Attachment 2**).

• Should optional preferential voting be introduced for the House of Representatives?

and

• Are the current criteria for determining formality of votes in federal elections appropriate? Should they be varied to remove obstacles to casting a valid vote?

Voting should be OPTIONAL preferential. Those who want to make their own choices should not be forced to mark preferences if they do not have any knowledge of some of the candidates.

If a voter has a preference for only one candidate, or several candidates, then that voter should be allowed to vote accordingly, and not forced to give preferences to all candidates. The more so when in practice, usually not very many preferences will be examined during the count as votes are being transferred from candidate to candidate.

If optional preferential voting is introduced, there will also need to be an ongoing educational campaign to ensure that voters understand the preferential system, and voters are encouraged to indicate as many real preferences as possible.

Under the legislation it would also be possible to stipulate that any how-to-vote cards need to show the full allocation of preferences, so that voters can see how the candidates themselves would like to recommend preferences. This already happens under South Australian electoral legislation with candidates banned from distributing how-to-vote cards that do not provide for a full allocation of preferences.

• For the Senate, should preferential above-the-line voting be introduced? Should optional preferential voting below the line be introduced?

The Electoral Reform Society believes that above the line voting for the Senate needs to be abolished. In its place, optional preferential voting should be introduced.

It is stated on page 59, point 5.57 in the Electoral Reform Green Paper that in relation to Senate elections, there is a 'clear' choice between expressing a voter's own

preferences (voting below the line) or adopting a group or party's preferences (voting above the line).

In the opinion of the Electoral Reform Society, there is hardly a 'clear' choice. If a voter wants to vote below the line, it is difficult to be able to bring something to the polling booth to assist in filling out the ballot paper. If a voter wants to vote above the line, it is difficult for that voter to find out where preferences are given.

While above the line voting exists, consideration needs to be given to either the Australian Electoral Commission distributing the voting tickets or legislating so that the political parties must provide this detail in print form. There is also a need for a matrix comparing the tickets and a blank Senate paper.

While above the line voting exists, it is necessary to ensure that voters are aware of what voting above the line means.

Under the *Commonwealth Electoral Act 1918*, Section 216 states that a poster or a pamphlet showing the voting tickets must be prominently displayed at each polling booth. At the last Federal election, the Electoral Reform Society asked members to check when they were voting whether this information was available. The responses received showed that the details were readily available at most polling booths, and we thank the Australian Electoral Office for not only arranging this, but making the polling staff aware that this was available. In the past, many polling staff, including at times the officers-in-charge were not aware that this was available or necessary under the legislation.

The website on the Australian Electoral Commission also provided the details of the voting tickets. However this is cumbersome and difficult to follow, or to conveniently download. A matrix comparing the tickets would be a useful addition.

Unfortunately also there was no blank Senate ballot paper provided on which voters could mark the order of their own preferences, so that they could take this with them when they went to vote. The Electoral Reform Society received several requests from the members and the general public for a blank Senate ballot paper. The provision of such a paper from the Australian Electoral Commission would assist those who are considering voting below the line.

The Society was impressed by the media release issued on 20 November 2007 by the Australian Electoral Office on "*Voters have the final say ranking candidates on the ballot paper*", which made voters aware that they could vote below the line. In addition, GetUp gave a summary of ticket voting and "*The Independent Weekly*" also had an article on ticket voting. However ticket voting was ignored in most of the media. Despite this almost 12,000 more South Australians voted below the line in the 2007 Election compared with the 2004 Federal Election.

While Section 216 stipulates that details on voting tickets need to be available at polling places, this information is actually of very little use at such a late stage in the election. Rather than provide details on voting tickets at polling booths, this needs to be provided before Election Day.

It is preferable that it be in printed form. Consideration needs to be given to either the Australian Electoral Commission distributing the voting tickets – perhaps in their booklet “*Your official guide to the 2007 federal election*”, or legislating so that the political parties must provide this detail in print form.

The Electoral Reform Society would prefer that there was optional preferential voting. It has been put to the Society that a true independent candidate can not run above the line for the Senate because a voting ticket needs to be lodged in order to appear as a ‘group’ above the line. It is understood that Independents in the last Federal Parliament before the last election highlighted this inequity and attempted to amend the legislation to enable independents to run above the line without having to direct preferences. Allowing optional preferential voting would overcome this problem.

• ***Would there be benefits in greater harmonisation of voting systems?***

and

• ***Would there be benefits in greater harmonisation of formality rules for federal, state and territory elections?***

There needs to be a steady push towards harmonisation of electoral procedures. However where there are differences, this allows for comparisons to be made, such as comparing the outcomes of elections for:

- single-member electorates versus proportional representation and multi-member electorates
- optional preferential voting or full preferential voting
- voluntary versus compulsory voting
- different procedures for placing names on ballot papers.

This point has been made clearly under point 3.19 pointing out that there are opportunities for innovation and experimentation under a federal system.

Under point 1.34, it is suggested that harmonisation can be explored through meetings of federal, state and territory ministers, with responsibility for electoral matters.

As part of the process of having such joint meetings, it is important that the wider community and any organisations with an interest are also consulted.

The Electoral Reform Society is aware that in South Australia, before meetings of the Ministerial Committees and Standing Committees for both Natural Resource Management and Primary Industries, briefings are held for agricultural industry organisations (the South Australian Farmers Federation and the South Australian Advisory Board of Agriculture). This type of consultation needs to be extended to electoral matters.

• ***What strategies do you think could reduce the level of unintended informal voting?***

The introduction of optional preferential voting would remove the biggest obstacle to achieving a formal vote.

• Are the current arrangements governing redistributions satisfactory? Should redistributions be conducted according to a fixed timetable, or a ‘fairness’ criterion?

If multi-member electorates were introduced for the House of Representatives, it would still be necessary to draw electoral boundaries. However consideration should be given to only having redistributions when the number of electors is above or below the designated margin by a significant amount and this occurs in a number of the multi-member electorates. It should not be necessary to have redistributions after every election.

It is also not necessary to introduce the fairness test as one of the criteria for redistributions. In relation to the South Australian fairness test, at the time of the 1991 State referendum on this issue, the Electoral Reform Society was virtually the only organisation that campaigned against the fairness test. We maintained that while there were single-member electorates, it was impossible to achieve the fairness test. The 1997 and 2002 South Australian election results vindicated our stand.

• Should any changes be considered to the arrangements governing representation of the states and territories in the House of Representatives and the Senate?

and

• What changes, if any, should be considered to the current composition of electoral divisions?

As indicated, there is an urgent need to introduce multi-member electorates for the House of Representatives but keep statewide electorates for the Senate.

If single-member electorates are maintained for the House of Representatives, discrepancies in the size of electorates need to be addressed.

Currently there can be a wide disparity in the size of electorates for the House of Representatives. At the last Federal election, the largest electorate was Canberra (ACT) with 122,401 voters and the smallest was Solomon (NT) with 57,560 voters. If Tasmanian and Territory electorates are ignored due to the Constitutional requirements, the largest electorate was then McEwen (Vic) with 104,509 voters and the smallest was Moore (WA) with 76,761 voters. McEwen was 36% larger in the terms of the number of voters than Moore. A further examination even showed a wide variation within a State between the largest and smallest, the biggest difference being 17,918 voters in WA between Canning and Moore, a 23% difference.

The current Constitutional requirements need to be examined. If Tasmania is to have a minimum number of seats, or there are to be a certain number of seats for each territory, then these “benchmarks” need to set the size of all electorates and the number of members of the House of Representatives adjusted accordingly.

The introduction of multi-member electorates for the House of Representatives would make it easier to maintain equality between electorates as well as assist in reducing the frequency of redistributions.

• *Should any changes be considered to address the issue of members or Senators retiring before the end of their terms?*

There is a need to make changes so that to fill any Senate vacancies, there is a recount of the votes that elected the retiring Senator. If the voters' wishes - as expressed at the initial election for the vacating member - are to be reflected, the quota of votes that elected the vacating member should be recounted to ascertain whom the voters next preferred.

The countback method is important in maintaining the connection with voters, not only at election time but also throughout the term in case a vacancy occurs.

Countback also deals reasonably with all eventualities in practice, whereas party appointment methods go awry when independents are to be replaced or where parties have become defunct or have split in a number of directions. Steele Hall's Senatorial replacement after the Liberal Movement ceased to exist is an example of the potential manipulation that can occur, and there has more recently been speculation over what would happen if Nick Xenophon resigned. Currently there is no provision for filling a vacancy of an Independent or of a person who represented a party that now no longer exists.

Other aspects raised in the Electoral Reform Green Paper

Direct elections (page 13)

In point 1.15, page 13 it is stated that "Each state and territory parliament is directly elected by the people."

This is certainly not correct for the Senate, and the Legislative Councils for New South Wales, Victoria and South Australia where any vacancies to any of these parliaments are filled by appointment. There are no direct elections to fill these vacancies.

In contrast, for all other parliaments there are either by-elections or recounts (for the Western Australia Legislative Council, Tasmanian House of Assembly and the ACT House of Assembly).

Local government elections (page 14)

Why are the options for reform of local government electoral arrangements outside the scope of the Green Paper (Point 1.22, page 14)?

This is a disappointing exclusion.

There would have been merit in addressing local government elections at the same time as most of the issues also apply to the effective fair running of local government elections.

Non-citizens (page 36)

All permanent residents in Australia and who pay taxes should be eligible to enrol to vote. Why should non-citizens who are permanent residents and pay taxes not allowed the opportunity to vote on how their taxes should be spent?

Prior to 1984, British citizens who became permanent residents in Australia were required to enrol. They had no choice.

This opportunity should now be given to all other non-citizens who are permanent residents, except that this should not be compulsory.

Redistributions (page 67)

In relation to fixing the timing for redistributions, one option listed in Point 5.93, page 67, is to hold a redistribution after every general election, as applies in the ACT.

This also applies in South Australia.

Maintaining the electoral roll (page 89)

It is unrealistic to expect voters to update their enrolment details within 30 days of moving to a new address. If and when children leave home, this often means moving from place to place until they settle, usually by buying their own home. During this time there may be merit in allowing them to maintain their enrolment at the parental address.

Regulation of candidate preselections (page 118)

In point 8.29, it is correctly stated that approximately a third of all House of Representative seats are classed as 'safe,' and therefore the preselection of the candidate for party likely to win is the crucial election.

Under a fair and democratic electoral system there should not be safe seats. Currently only the Hare-Clark system used to elect Tasmania's House of Assembly and the ACT House of Assembly guarantees that no person has a safe seat.

Electoral education (page 130)

Under point 9.17 it is reported that the Electoral Education Centres in Melbourne and Adelaide would be closed.

The Electoral Reform Society is very disappointed that this is happened. It is a backward step, as every possible measure is required to inform Australians on how the electoral system operates. This is required if electors are going to be in a position to make an informed vote at each election.

Postal vote application process (page 166)

The Australian Electoral Commission should be the only organisation allowed to distribute and receive applications for postal votes.

There is a need for clarification on whether voters need to make a postal vote. The major parties tend to distribute material which includes applications for postal votes. Many are confused by these applications and also concerned at the process when such applications have to be returned through a political party.

For complete transparency, the Australian Electoral Commission should be the only organisation allowed to distribute and receive applications for postal votes. Political parties and candidates need to be kept separate from this process.

There is merit in considering changing completely to postal voting (as now used for local government elections in South Australia and used in electing delegates to the Constitutional Convention on the Republic).

Because of the distribution of material from the major political parties, many in the community often think Federal elections are being conducted by postal voting. To assist in avoiding this confusion, the Australian Electoral Commission's booklet "*Your official guide to the 2007 federal election*" should be individualised for each Federal electorate and the location of the polling booths included. This would also assist where polling places have changed.

There is also a need to extend electronic voting and allow absentee voting at all polling booths.

The Society was very pleased that the Australian Electoral Commission provided sites for a vision-impaired electronic voting trial during the 2007 Federal Election. Regardless of the outcome of this trial, such a move needs to be applauded for attempting to give the vision-impaired independence and privacy to cast their votes.

The Society would also support a general extension of electronic voting. Particularly while there is the compulsory marking of all preferences, electronic voting would assist voters who want to make a legitimate vote but who currently accidentally vote informally. It would also assist to prevent accidental and intentional multiple voting, and assist in speeding up the counting process.

The Society was informed that during the 2007 Election when mistakes were made, that replacement ballot papers were not always given. Electronic voting would assist to overcome this problem.

With modern technology, on polling day voters should now be allowed to make absent votes at any polling booth. Currently if you are interstate it is not always possible to get to designated polling booths even if you know where these are and know how to get to them. Often travellers on the Dukes Highway (between Adelaide and Melbourne) stop wherever they see a polling booth, and then give up if they can not vote there but are directed to somewhere else.