

Democracy in Australia – Redesign of ballot papers to ensure transparency of preferences

Above-the-line voting on ballot papers was introduced to offer voters a simpler alternative to the requirement to number every candidate in order of preference on ballot papers. It also had the aim of reducing the number of incorrectly completed ballot papers and thus informal votes. Above-the-line ballot papers, while retaining the option to number all candidates, introduced the alternative of the nomination of a vote for a particular party and by implication for the preferences that the party had decided upon.

In Senate elections where there are large numbers of candidates, the incentive to vote above the line for a party and its preferences, instead of numbering all the candidates' boxes in order of the voter's preference, is very strong. Numbering each individual box is a very tedious task which carries the risk of making a mistake in number sequencing, and so of making an invalid vote. This task is further complicated by increasing numbers of candidates, for example, the 2013 Senate ballot paper for Victoria will be just over a metre long, requiring the Australian Electoral Commission to order magnifying sheets to assist voters to read below the line.

Researchers and commentators have expressed much concern with the current Senate above-the-line voting practice. They argue that above-the-line voting not only puts the voter in the hands of the chosen party but makes it very difficult for the voter to understand the preference implications of his or her vote. The virtual invisibility of preference flows may direct a vote in a way not intended by the voter. This is because parties increasingly negotiate preference deals not on issues of policy or principle but on the basis of strategy and self-interest.

A case study from the 2004 federal election

In the 2004 federal election, Family First candidate Steve Fielding won a Victorian Senate seat when only polling about 0.13 of a primary vote quota. Senator Fielding

received 56,376 primary votes (the sixth highest primary vote count, and a fraction of the third highest, the Australian Greens with 263,481). Family First received the bulk of its votes during the distribution of preferences. Peter Brent notes that Senator Fielding needed the preferences from half the ALP votes to win the seat from the Australian Greens. As it turned out, the system sent the unused votes from all the above-the-line ALP voters to Family First. Brent points out that it is unlikely ALP voters intended to preference Family First over the Australian Greens since Greens scrutineers observed that 63 per cent of ALP voters who voted below the line, articulating their preferences rather than accepting party negotiated deals, gave their preferences to the Greens over Family First candidates.

ABC election analyst Antony Green wrote that the price for a decrease in informal voting achieved by above-the-line ballot papers is that "a democratic deficit has developed, with serious questions as to whether the results engineered by group ticket voting truly represent the will of the electorate".

Options for improving democratic outcomes

Green argues that reform is required both to the Senate ticket and to the automatic preference planning available to parties. His alternative approaches to dealing with the problem are:

The first (approach) is to give voters more options to direct their own preferences, which will weaken the control parties have over preferences, making elections more reflective of the will of the electorate. The second is to change the way parties lodge ticket votes to discourage micro-parties engaging in preference harvesting, and also to discourage larger parties from gambling with their preferences. The easiest solution is optional preferential voting below the line, voters only having to fill in as many preferences as there are vacancies to fill. A second is to adopt the new NSW

Legislative Council system, where voters are allowed to fill in their own preferences for parties above the line, again ideally using optional preferences. Both of these options give voters a much more manageable way of voting against the predetermined preference tickets of parties. The second approach would be to put an upper limit on the number of parties that could be included on a group ticket preference list. If a party could only give preferences to five other parties on the ballot paper, it would have two consequences. First, preference harvesting by micro parties would be made much more difficult. Second, with a limit on preferences, parties would be encouraged to list like-minded parties on their preference tickets rather than gamble one of their precious preferences on a strategic deal.

Proposed parliamentary changes

Greens Senator Bob Brown introduced the Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008 to the Senate in May 2008. The Bill sought to replace current above the line one box selection with nomination of preferences to parties by the voter. This would allow voters to select parties above the line, rather than numbering individual candidates below the line, forcing transparency of preferences for the voter. The Bill was referred to the Joint Standing Committee on Electoral Matters.

The second green paper on electoral reform

The Rudd Government's second green paper on electoral reform (September 2009) included discussion on ballot papers. One of the key principles it set down for an electoral system, was that balloting processes should enable voters to truthfully express their choices between candidates or parties. The green paper presented two models of preferential above-the-line voting: voters could number either all or a minimum number of squares above the line instead of a ticket voting with a single square.

Commitments of the Gillard Government

As part of the ALP and Greens discussions in September 2010 which led to the Greens agreement to support a Gillard minority government, the ALP agreed that the Greens would reintroduce Senator Brown's 2008 Amendment, and that the ALP would consider the Bill and work toward

an agreement on reform. On September 30th 2010, Senator Brown introduced the Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2010, and it remains before the Senate at the time of writing.

Stopgap measures

As a consequence of increasing interest in the issue of Senate ballot papers, in the lead up to the 2010 federal election, a website, belowtheline.cc, was designed by a member of the public to make numbering below the line less difficult for voters. The site displayed the order of preferences directed by candidates, and allowed voters to plan ahead to select their own preferences. This website made it easier for voters to use the existing system, and also highlighted its complexities. The site was available for voters in the 2010 federal and Victorian state elections and is being updated to assist voters in the 2013 federal elections.

Conclusion

There are a number of options for change to the above-the-line voting system being put forward. All of these proposed alternatives indicate consensus for change to the current system, a system which lacks transparency and distorts voters' intentions.

A Second Chance

Senator Brown's 2010 Bill lapsed at the end of Parliament in November 2013. Nevertheless, the 2013 election revealed the current system's vulnerability to 'gaming' through preference deals, with some candidates elected with very small percentages of the primary vote; in two cases, representatives were elected with less than one percent of the primary vote. A new Bill, *The Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013*, was therefore introduced as a private senator's bill by Senator Nick Xenophon.

The Bill proposes reforming the current system for electing Senators to the Parliament by introducing an optional preferential system above and below the line as a means of making it easier for voters to determine their own preferences rather than through the current system of group and independent voting tickets. Such an action is also viewed as a means of increasing transparency in the voting process.

In November 2013, the Bill was referred to the Senate Finance and Public Administration Legislation Committee for inquiry and report. The committee concluded that issues raised by the Bill would best be considered by the Joint Standing Committee on Electoral Matters and referred it to this committee.

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