



Reforming South Australia's Upper House

Following the recent Senate elections, there has been a number of proposals put and discussed about whether there should be any changes to South Australia's Upper House prior to the March 15 State Election.

Current position

The policy of the Electoral Reform Society of SA is that –

Above the line voting for the Upper House should be abolished in favour of optional preferential voting.

Further policies in relation to the Upper House are:

Voting should be *optional* preferential

If a voter has a preference for only one or several candidates, then that voter should be allowed to vote accordingly, and not forced to give preferences to all candidates.

There should be changes so that to fill any Upper House vacancies, there is a recount of the votes that elected the retiring member.

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. 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.

Filling casual vacancies should occur by countback (as with the Hare-Clark system in Tasmania) to ensure fairness and prevent party interference.

Positions of candidates on ballot papers should be rotated at random (Robson rotation) to make automatic or donkey voting equally distributed over all candidates.

Submission on 2010 Federal Election

For the Inquiry into the 2010 Federal Election conducted by the Joint Select Committee on Electoral Matters, the submission from the Society in February 2011 included the following recommendation:

Above the line voting for the Senate needs to be abolished. In its place, optional preferential voting should be introduced.

Comments were also made on the Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008 (the then Senator Brown's Bill) arguing that this will still not improve the requirements if voters not only want to choose the order in which they prefer political parties, but also want a say on the ordering of the candidates within the political parties. (See Attachment 1, for the full comments.)

Thresholds

There is now concern that unless the system is changed, at next year's election for South Australia's Upper House, candidates could be elected with a miniscule number of first preference votes. It must be remembered that such candidates are only elected if they also receive sufficient preferences, as to get elected all successful candidates must get a quota. For the Upper House, with 11 members to be elected, the quota is 8.3% of the total formal votes. At the last election, this quota was almost 80,000 votes.

If the first preference votes of those elected at the last election are examined, it is clear that there were three Liberal and two ALP members elected, who each initially received less than 200 first preferences. They were elected as they received almost all of the surplus votes from the top candidates for the two major parties.

One of the suggestions being made on how the system could be changed is to instantly eliminate any candidates who get less than a certain percentage of the votes (4% has been mentioned) and to distribute their preferences. Such an artificial proposal is unfair not only to the candidates who get below this figure, but for those who voted for these candidates.

The current method of quota-preferential proportional representation used in South Australia firstly transfers surplus votes of any candidates who receive more than a quota to the continuing candidates according to the preferences marked by the voter. To pre-determine who the continuing candidates are could well distort the wishes of the voters and their preferences for who should be elected. This makes a mockery of using proportional representation as such thresholds can seriously affect the relation between the percentage of the popular vote and seat distribution.

Robson rotation

As indicated, the Society supports the Robson rotation as used in Tasmania and the ACT.

This rotation means that the order in which candidates appear within groups varies from ballot paper to ballot paper, randomising the chance of appearing at the top of the ballot.

The Robson rotation also allows for quotas to be evenly distributed across a party's candidates, rather than to be virtually all with the first candidate listed. It is this that then favours micro parties that are gaming the preference system.

With the Robson rotation, the major parties would have all their candidates staying in the count, longer.

Currently if a party with three candidates for example gets 2.25 quotas, the first and then the second candidates are elected with a quota each, leaving the third candidate with only 0.25 quota. This candidate is very often eliminated part way through the count because other candidates in other parties, especially with preference harvesting, can build up their vote and get in front of such third candidates.

Under the Robson rotation, each candidate in this example would probably get approximately 0.75 quota each, and all three would then stay in the count longer increasing the chances of all being elected.

The Robson rotation could also assist to reduce the size of the ballot paper, with parties tactically reducing the number of candidates within their group to avoid spreading the voting support too thinly.

Electoral (Optional Preferential Voting) Amendment Bill 2013

On 16 October, the Hon Mark Parnell introduced this Bill into State Parliament to allow for optional preferential voting above the line for future Upper House elections and removing the need for voting tickets for the Upper House. This approach is similar to the former Senator Bob Brown's lapsed 2008 Bill, and has much the same lamentable defects.

While this Bill will allow voters to choose between political parties and groups, this is just a tinkering at the edges. It still leaves voters with a poor choice between voting below the line (and still being forced to mark preferences for all candidates) and voting above the line (and still having to accept the order within each grouping).

It is pleasing that optional voting is being considered, but why just for those who vote above the line? In many respects optional voting is more important for those voters who want to vote below the line to show their true preferences. To Mark Parnell's credit, in his second reading speech he does indicate that he is prepared to consider changes to relax the "onerous" task of having to number all boxes (his word). It must be remembered that until the high numbers of Senate nominations in NSW and Victoria at September's election, South Australia had the unenviable record of the greatest imposition upon below-the-line voters, at the 2010 Upper House election.

Also to Mark Parnell's credit, he had previously tried to introduce the Robson rotation earlier this year (during the debate on the Electoral (Miscellaneous) Bill). Both the Government and the Opposition had argued against the Robson rotation expressing concern that it would increase the cost due to more resources and an increase in scrutiny. In the light of the recent Senate results, perhaps both will now reconsider 'what cost democracy'?

In this Bill, there is insufficient consideration on the implications optional preferential voting will have on the counting process now that there will be votes still in the count that do not express any further preferences. The Bill suggests that such votes must be set aside. It is necessary to re-define how the transfer value is calculated.

Currently the Section 95 (7) in the *Electoral Act 1985* states:

"Unless all the vacancies have been filled, the number (if any) of votes in excess of the quota (in this section referred to as **surplus votes**) of each elected candidate will be transferred to the continuing candidates as follows:

(a) the number of surplus votes of the elected candidate will be divided by the number of first preference votes received by him or her and the resulting fraction will be the transfer value;

(b) the total number of ballot papers of the elected candidate that express the first preference vote for him or her and the next available preference for a particular continuing candidate will be multiplied by the transfer value, the number so obtained (disregarding any fraction) will be added to the number of first preference votes of the continuing candidate and all those ballot papers will be transferred to the continuing candidate,

and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any such transfer will be elected."

Section 95 (7) (a) needs to be changed to:

“(a) the number of surplus votes of the elected candidate will be divided by the number of first preference votes (*excluding any first preference votes indicated on ballot papers which do not bear a next available preference for a continuing candidate*) received by him or her and the resulting fraction will be the transfer value;”

The words in the bracket need to be added. This is already in the NSW legislation on which this Bill has been modelled. Further refinements also need to be considered by examining the ACT and Western Australian legislation.

This Bill also removes the need for continuing with voting tickets for the Upper House. Mark Parnell indicates that “The solution to the problem of undemocratic election results is to get rid of group voting tickets and to put all preference decisions back in the hands of voters” (Second reading speech). He should have gone further in his Bill and removed all mention of voting tickets from the *Electoral Act 1985* as there are also voting tickets for the Lower House.

About the Electoral Reform Society of South Australia

The ERS SA is the South Australian Branch of the Proportional Representation Society of Australia (www.prsa.org.au). The Society promotes the Hare Clark quota preferential method of proportional representation (Quota preferential is also known as single transferable vote or STV). For the past 80 years the Electoral Reform Society of South Australia has been committed to establishing fairer elections in South Australia, elections where voters can be assured of receiving what they voted for.



Inquiry into the 2010 Federal Election

Part of the Submission from the Electoral Reform Society of South Australia February 2011

In addition to arguing for proportional representation for the House of Representatives, there are a number of issues that concern the Electoral Reform Society, which we wish to raise:

1) **Senate ballot paper**

Above the line voting for the Senate needs to be abolished. In its place, optional preferential voting should be introduced.

When voting for the Senate, currently voters have a poor choice between trying to express their own preferences (but by being forced to mark preferences for all candidates below the line) or blindly adopting a group or party's preferences (voting above the line).

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. While it appears that at this election, the details were available at most polling booths, not all polling staff were aware that this was available.

The website on the Australian Electoral Commission provided the details of the voting tickets for the 2010 elections. However this was 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 provision of such a paper from the Australian Electoral Commission would assist those who are considering voting below the line.

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 official guides to each 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 cannot 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. This inequity could be rectified by amending the legislation to enable independents to run above the line as individuals without having to direct preferences. But allowing optional preferential voting would overcome this problem.

Commonwealth Electoral (Above-the-Line Voting) Amendment Bill 2008

Senator Brown has indicated that he will be re-introducing this Bill and in the "Agreement" with the Australian Greens, the ALP has indicated it will consider the Bill and work with the Greens to reach reforms satisfactory to the Parties.

Senator Brown argues that as above the line voting has taken the decision on preferences from voters and given it to the political parties, his Bill will give this right back by allowing preferential voting above the line.

As already stated, 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.

Senator Brown's Bill will still not improve the requirements if voters not only want to choose the order in which they prefer political parties, but also want a say on the ordering of the candidates within the political parties.

It is important that voters realise that it is their votes and they can determine their preferences.

Senator Brown's Bill also shows up the inequity in the design of the ballot paper where ungrouped candidates are unfairly treated by being lumped together at the end of the ballot paper and voters do not have the option of being able to vote for these above the line. His Bill appears to still want the ungrouped candidates to be lumped together.

If above the line voting is abolished, and optional preferential voting introduced, not only would this be easier for voters, reducing the informal vote, but it would also be fairer for the ungrouped candidates. The introduction of the Robson Rotation would be a further refinement that would ensure that all candidates are treated equally, and would mean that the choice of who should be the successful candidates would truly be the voters' choice.