

Proportional Representation Society of Australia



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Submission to the Joint Standing Committee on Electoral Matters Inquiry into the 2022 federal election

1. Discontinue the "above-the-line" option
2. Introduce Robson Rotation for the Senate
3. Major parties' self-inflicted Senate under-performance
4. Robson Rotation for the House of Representatives
5. Proportional representation in the Parliament

This submission refers to the Committee's worthy desire for "increased electoral participation" stated in each of Sections (d) and (f), and for "proportional representation in the Parliament" in Section (g) of its published Terms of Reference. See

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2022federalection

1. Discontinue the "above-the-line" option: Increased electoral participation would be a very likely outcome of discontinuing the quite unnecessary cluttering of Senate ballot papers with a provision for two different options for casting a valid vote, which did not apply at Senate elections before 1983. That provision has presented voters with a need to make a choice that previously did not exist before all Senate ballot papers began to display a thick horizontal line to separate the two alternatives of "*above-the-line*" voting and "*below-the-line*" voting.

In 2016, desirable legislative changes were made to the rules for both of those options by:

- (a) discontinuing the original Group Voting Ticket aspect of "*above-the-line*" voting, thus discouraging self-interested "preference whisperers" and their customers from manipulating elections, and
- (b) introducing partial optional preferential marking "*below-the-line*" so that the maximum number of preferences that needed to be marked was twelve, in place of the previous open-ended requirement for nearly all preferences to be marked, even if there were - as happened at the 2013 NSW Senate election - more than 110 candidates that "*below-the-line*" voters had to rank in preference order.

See https://www.prsa.org.au/history.htm#_5A

An effect of that 2016 change to partial optional preferential marking was to remove the original reason for introducing an "*above-the-line*" option, which was ostensibly to reduce the high incidence of informal ballots. Another, unstated reason seems to be to reduce the need for parties to hand "*how-to-vote*" cards to voters before they vote. That - together with the 1940 law letting party organisations set the order down the party's column on the ballot paper in which its candidates' names appear - is how political parties inveigle voters to vote for their candidates in the order the parties want.

2. Introduce Robson Rotation for the Senate: Tasmania, for all of this century, has successfully used Robson Rotation of candidates' names down ballot paper columns for both of its State houses, and for its municipal polls. It is also used for polls for the Legislative Assembly of the Australian Capital Territory.

Robson Rotation is far more beneficial for voters than the present stage-managed ballot paper format because it ensures that voters that have a strong preference order for particular candidates realise that it is worth making the effort to vote in that order with the confidence that their considered vote will not be swamped by regimented ballots for an order decided by a small group of political party operatives. There is, of course, nothing to prevent parties advertising their idea of the order in which people should mark preferences, but the law should never engineer a favoured outcome for particular candidates.

Voters that wish to support a particular party, but have no real preferences among its candidates, can give their highest preferences to that party's candidates knowing that such voting will give equal benefit to all its candidates, with the ultimately successful candidates of the party being those that edge ahead by the transfer of votes from the less well-supported of them to those more strongly supported.

The first sentence of Section 7 of the Australian Constitution states, *"The Senate shall be composed of senators for each State, **directly** chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate."*

Providing an "above-the-line" voting option is an attempt to blunt the intention, in that Section 7, of the important word, **"directly"**, as it allows parties in their "how-to-vote" material to successfully urge voters to not make the effort to vote "below-the-line". See https://www.prsa.org.au/htv_cards.htm#examples

3. Major parties' self-inflicted Senate under-performance: Australia's two largest political parties handicap themselves by their strange practice of failing to give prominence to their Senate candidates yet expecting voters to dutifully place marks in boxes for many obscure candidates whose names they are either not told on how-to-vote material, or that they barely know, or have never heard of before.

By contrast, two smaller parties have managed to each have two of their candidates in the Senate under party names that function to exploit their "above-the-line" square. Those are Pauline Hanson's One Nation Party and the Jacqui Lambie Network, where voters "above-the-line" knew they could get Ms Hanson and Ms Lambie respectively. At an earlier election, Clive Palmer succeeded much better using his party name of Palmer United Party than he did using United Australia Party at the 2022 election.

The two largest political parties also handicap themselves by supporting the 1940 electoral law provision for all ballot papers to have candidates' names in the same order down the party column on the ballot paper. That provision has never existed in the 114 years that Tasmania's Hare-Clark electoral system has been used for elections to its House of Assembly, which specifically rejected adopting it.

Tasmania's current use of Robson Rotation since 1979 has ensured that first preference votes for the major parties' candidates are not excessively concentrated on their first-placed candidate so the remaining candidates therefore stay in the count for much longer, and there is a much greater likelihood of more of them being elected. See https://www.prsa.org.au/history_gvt.html#Cwth_5_concentration

4. Robson Rotation for the House of Representatives: The PRSA's recommended electoral system for the House of Representatives is a Hare-Clark system, as shown in Policy PRSA-002. See https://www.prsa.org.au/prsa_national_policy_002_house_of_representatives.html

The Society noted that the JSECEM report on its Inquiry into the 2019 federal election recommended the use of Robson Rotation for elections to the House of Representatives, which the PRSA supports. Although the PRSA does not support the present unrepresentative electoral system for the House, it does note the successful use of Robson Rotation for Tasmania's Legislative Council elections, which are also single-vacancy elections, where donkey voting cannot be a factor in close electoral outcomes because of Robson Rotation.

That chamber also uses partial optional preferential voting rather than the open-ended full marking of preferences used for the House of Representatives, so that reduces the informal vote, avoids a *de facto* plurality system, and makes far less appealing a possible tactic of flooding the ballot paper with a very large number of candidates to confuse numerous voters.

5. Proportional representation in the Parliament: Section (g) of the Terms of Reference reads, *“proportional representation of the states and territories in the Parliament, in the context of the democratic principle of ‘one vote, one value’.”* Taken literally, that aim would require a number of proposals to alter the Constitution that would normally be expected to be unsupported by the necessary number of States, and thus produce no change.

Without altering the Constitution, proportional representation (PR) could be provided for in the House of Representatives by using mostly 5-member divisions, although certain provisions in the Constitution would require a few divisions to have a slightly different district magnitude. The type of PR to be used should be proportional representation using the single transferable vote (PR-STV), which is the counting system used for the Senate and Tasmania’s House of Assembly.

Suggestions for the use of any form of party list system or mixed-member proportional system (MMP) should be disregarded, as they would be unconstitutional under the direct elections provision of Section 24 of the Australian Constitution, and would deprive voters of being able to vote directly for individual candidates, as they have always done at Commonwealth polls. Four previous attempts to introduce or continue party list systems in Australia were unsuccessful. See <https://www.prsa.org.au/faillist.htm>

There is the precedent of the whole of the State of Tasmania being a single 5-member federal division in 1901. It would be desirable to avoid divisions with an even number of members, as explained at https://www.prsa.org.au/odd_even.htm

At present, the Northern Territory’s entitlement is to two *winner-take-all* single-member divisions, but if it became a single 2-member division using PR-STV it would enable 66% of its voters to cast effective votes, which are votes that form part of the quota that elects a candidate, rather than the present 51%.

The Australian Capital Territory’s entitlement to three single-member divisions enabling only 51% its voters to cast effective votes could likewise give way to a single 3-member division enabling 75% of its voters to cast effective votes.

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