

PROPORTIONAL REPRESENTATION SOCIETY OF AUSTRALIA (VICTORIA-TASMANIA) INC.



Tel. +61395891802

A0048538N Victoria
ABN 1 010 090 247

info@prsa.org.au
www.prsa.org.au

**Inquiry into the provisions of the Commonwealth Electoral Amendment Bill 2016
- a very disappointing failure to bring in democratic reform**

The Proportional Representation Society of Australia (Victoria-Tasmania Branch) [PRSAV-T Inc.] first wishes to thank the Joint Standing Committee on Electoral Matters (JSCEM) for the opportunity to make this submission - at rather short notice - to the brief Inquiry into the provisions of the *Commonwealth Electoral Amendment Bill 2016* (introduced on Monday 22 February 2016).

PRSAV-T Inc. welcomes the proposed discontinuance of Group Voting Tickets, which have distorted the will of the voters for at least the last generation, but it is deeply disappointed that the Bill does not follow the recommendations in the JSCEM's 2015 Final Report on the Conduct of the 2013 Election, in that it does not include the Committee's unanimous recommendation for 'partial optional preferential voting' *below-the-line*.

The Final Report of the Committee in 2015 contained the following Recommendation 1, which would have greatly advanced the democratic rights of voters: ([JSCEM Final Report 2015](#), Appendix D, page 189)-.

Recommendation 1

The Committee recommends that section 273 and other sections relevant to Senate voting of the Commonwealth Electoral Act 1918 be amended to allow for:

- optional preferential above the line voting; and
- 'partial' optional preferential voting below the line with a minimum sequential number of preferences to be completed equal to the number of vacancies:
 - ⇒ six for a half-Senate election;
 - ⇒ twelve for a double dissolution; or
 - ⇒ two for any territory Senate election.

The Committee further recommends that appropriate formality and savings provisions continue in order to support voter intent within the new system.

PRSAV-T Inc. objects to the provisions in the current Bill that discriminate severely against the nearly half a million Australian voters that choose to vote *below-the-line* ([link to AEC figures](#)). The figures from the 2013 election show that the smaller States – with smaller and thus less challenging ballot papers – have a much higher percentage of voters choosing to vote *below-the-line*. It is only the unreasonably demanding *below-the-line* formality provisions that prevent more voters opting for *below-the-line*, so real democratic reform would indeed move in the direction of reducing those unreasonable demands.

However, the current proposed changes to the formality of *below-the-line* votes represent only a tiny token improvement: increasing allowable mistakes from 3 to 5, but only 'as long as 90% of the ballot paper *below-the-line* is filled correctly'. It would be a derisory and insignificant change, and indicates that those that drafted the Bill had little regard for increasing voters' democratic rights.

At the same time, the formality requirement for an *above-the-line* vote is now significantly different from that for a *below-the-line* vote. An *above-the-line* vote is formal if a single number 1 appears in one square, relating to one 'group' (as a result of the 'savings provision'), and that one 'group' might have as few as one candidate, and very few will have more than six. Thus an *above-the-line* vote can be formal even though only one candidate is preferred. A *below-the-line* vote, on the other hand, is only formal if at least 90% is filled out 'correctly' and this could mean more than 90 candidates are preferred, as would be the case if the ballot paper were similar to that in New South Wales in 2013.

The Bill therefore increases the existing discrimination against those that choose to vote *below-the-line*. Australia's Constitution requires that members of the Federal Parliament are "directly chosen by the people". That was intended by the framers of the Constitution to require that the voters must choose the individuals that will represent them. The only way all voters can do that is *below-the-line*; yet *below-the-line* voters, many of whom cannot, or will never, accept the other option for marking their ballot, would become even more disadvantaged, and would face the unreasonable, and essentially pointless, time-consuming and error-prone burden of filling out virtually all the potentially very numerous squares.

Moreover, by refusing to extend optional preferential voting to below-the-line votes, the 2016 legislation seriously discriminates against ungrouped candidates, who do not receive a 'party box' and for whom an above-the-line vote cannot be cast.

How genuine is a reform declaring a particular numbering as formal if expressed *above-the-line*, but informal if written out *below-the-line*? If the reform is not genuine, perhaps it is really intended, as some of the current cross-bench senators have argued, to advantage some parties, and candidates, at the expense of others.

The Committee could immediately dispel the plausible concerns about the nature of these reforms, and remove the increased pronounced discrimination against the nearly half a million Australians that vote *below-the-line* by following its 2015 recommendations, which were made unanimously, and again recommend partial optional preferential voting *below-the-line*. The Bill enormously increases that discrimination by increasing the flexibility of an *above-the-line* vote so that it would no longer be confined to representing a complete order of preferences only, as would still virtually be the case with *below-the-line* votes, but it could be a formal vote for just a single candidate.

The original ostensible reason for introducing the Group Voting Tickets device in 1983, which the Bill would discontinue in 2016, was to reduce - without introducing the possibility of ballots being able to become exhausted - the previously high informality rate experienced when the only option for all voters was the requirement, disputed by a different major party in 1948, 1974 and 1975 for full preferential voting being required for a formal ballot.

The 2016 Bill would obviously increase the incidence of exhausted ballots for the much more heavily-utilized *above-the-line* option, so it seems strange that there is no corresponding relaxation of the draconian *below-the-line* formality provision, unless the real purpose of the Bill is to improperly inveigle more voters into relinquishing their constitutional right to vote for a particular preference order that is only available *below-the-line*, and substitute instead a much more easily-cast ballot, albeit for a somewhat different order, *above-the-line*.

This would allay the concerns of many that this Bill is an attempt to 'fix' or 'game' the Senate voting system, would restore a consistency in formality requirements, would remove an unnecessary burden on *below-the-line* voters, and would reduce the incidence of accidental, unintended informal voting among those whose particular preference order cannot be implemented by the far more limited permutations in preference order available *above-the-line*.

PRSAV-T Inc. submits that the most democratic way to proceed with electoral reform is to **trust the voters**:

- (i) to decide who receives their first preference vote and all their subsequent preferences, and
- (ii) to decide how many further preferences they choose to give.

PRSAV-T Inc. would have preferred to see a genuine reform that discontinued *above-the-line* voting altogether, allowed for a generous optional preferential vote *below-the-line*, and required that the invidious division of Australians into two classes of voters be discontinued, and required complete control of preferences by all voters to the extent they considered, or could be persuaded, without legislative corraling, to be necessary. The current reforms do not achieve this, they fail to meet the standards of good democratic practice and they will lead to problems in the future that could so easily have been avoided. Giving all Australians the same task when voting would also make Senate ballot papers less cluttered and confusing.

The creation of a single method of voting for all voters, where they could indicate preferences essentially for individual candidates, notwithstanding their being still grouped and identified by their party affiliation (if any) would encourage candidates of all parties, and those of no party, to reveal and campaign more about their viewpoints and qualities, and do much to remove the very widespread unawareness of State voters about who the mostly anonymous prospective senators and twelve existing senators are and what they stand for, as they, rather than their more protean parties, are the individual building blocks of the Senate. A greater role for the voters can help save the parties from their own preselection mistakes.

