

Submission by:

Laurence Brown



Submission for:

Electoral Reform
Strategic Policy
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001
Email: electoralreform@justice.qld.gov.au

Executive Summary

This submission proposes that Queensland move to four year fixed terms with the non-compulsory option of public financing of campaigns. It does not favour the repeal of compulsory voting but does favour the repeal of optional preferential voting.

Part A

1, 2 & 3. Political donations; Public funding for elections; and Election campaign expenditure

The argument forwarded that, "taxpayers should not be forced to subsidise political parties/candidates they may oppose," (p.13) is shallow and has not been thought through. Individual taxpayers by necessity are forced to pay for all kinds of public expenditure that they personally are often violently opposed to. Wars, international aid and other military spending they disagree with, roads, bridges and tunnels they never use, parks, sporting venues and theatres they never attend, teachers, nurses and therapists they never anticipate needing, ministerial cars, drivers and staff and the parliamentary catering budget are among the things that one taxpayer or another at one time or another has felt that they didn't want but were forced to pay for.

The nature of the system is such that it is the interests of the multiplicity of the electorate, not the interests of the individual that is being enacted. Representative democracy should never be reduced to the vagaries of the impulse buyer or of individual consumer whim. If we were to give each individual elector the right of veto

over every matter that they personally disagreed with there would be no public policy enacted at all.

The public funding of the necessary process of the election of our political representatives is therefore one that should never be subject to the whims of political bias or the limitations of individual means. The election of individual representatives to embody Queensland interests is the cornerstone of our particular democratic system. This process should never be taken for granted or dismissed because the outcome is something we each personally do not happen to care for. Public funding of elections should not be scaled back therefore, but be expanded to ensure the greatest possible participation by Queensland citizenry.

The model this submission proposes does not allow for the success of frivolous applications for funding, nor does it force independent candidates or party-endorsed candidates to accept public funding if they do not so choose. Rather, this submission proposes a model that will allow the broadest possible involvement of all candidates serious about the governance of Queensland.

The public funding and political donation models offered in the 2013 Electoral Reform Green Paper do not consider a both/and model. A funding model that incorporated both private and public funding would allow for **either** uncapped donations and uncapped spending on elections by individuals running as independents or as party-endorsed candidates **or** the use of capped public funding for the same.

If an independent or party-endorsed candidate chose to forego public financing of their participation in the electoral process they would be subject to no limitations on either the sources or sizes of their donations, or where their election budget could be spent. But in choosing this option they would no longer be eligible for any of the public funding of their campaign.

Those independent or party-endorsed candidates who chose to accept public funding for the campaign would not be able to spend any more than the public funds on their campaign but would be eligible to spend the full amount.

In the 2012 state election the cap on each electorate campaign was \$50,000. In order to keep a reign on the expense to the public purse public financing should be capped at \$30,000 per individual candidate, per electorate. The public funding figure should be indexed annually. If candidates anticipate that they will need to spend more than the \$30,000 afforded by the public funding, they must decide before making the application for the funding that they will not seek or accept it. Once application for public funding has been made and granted the \$30,000 cap must be observed.

Public financing for central party political campaigns should not be offered since Queensland does not have a separate election for Premier. It is likely that central

party campaigns will seek a buy-in for each of their endorsed candidates of a certain figure – be it \$5,000 or \$10,000. If this is the case, the buy-in figure must be included in the \$30,000 spending cap.

The Electoral Commission of Queensland (ECQ) should be tasked with determining the validity of a candidate's application for public funding. The subjects to be considered in making this assessment should include past electoral performances, the existing organisation of a campaign and the likely outcome of the electoral attempt. Public funding should not be made available by the ECQ to candidates who are considered to be frivolous or protest candidates who will not achieve a significant share of the vote.

Public funding would only be available to candidates or parties who achieve a certain percentage of the vote in their particular electorate. Further study would need to be undertaken by the electoral commission as to what percentage would be considered to be a viable attempt at achieving office – whether 5%, 10%, 20% or some other figure. Whatever the case however, public funding would need to be repaid at competitive rates of interest by all candidates who sought and were granted public funding but who failed to achieve the necessary percentage to qualify. As a result of this change, the remuneration of candidates on the number of votes they achieved would be discontinued.

Regardless of whether a candidate chose to accept or forego public financing, or failed to qualify for public financing once granted, all candidates must submit a thorough audit of their campaign expenditure that should be made available to the public within six months of the conclusion of the election.

Part B

1. Truth in political advertising

The enactment of truth in political advertising laws is a vexed subject because it may not affect the result of an election – though that would be its intended purpose. Indeed there may be a sound argument that the laws would bring justice to a wronged party after the event, but that is likely to provide little solace to a candidate who feels they have lost an election on the back of a claim that is subsequently proven false. Short of punishments that included jail terms and therefore disqualification from parliamentary service, there is little likelihood that such laws would ever be effective.

2. How-to-vote cards

The existing laws governing how-to-vote cards and their distribution is in no particular need of reform.

3. Proof of identity

The 2013 Electoral Reform Green Paper notes on page 29 that, "as there is no specific evidence of electoral fraud in this area, introduction of proof of identity requirements could be considered a disproportionate response to the risk." This argument is powerful because any practice that promotes the disenfranchisement of Queenslanders should be vigorously opposed.

Indeed there is one instance of great numbers of voter fraud that should be addressed by any electoral reform. This is the voter fraud of non-enrolment. Non-enrolment is not a democratic right. The apathy and illegality of this situation should be addressed with all haste.

This situation can be easily rectified by automatic enrolment of all eligible people through state and federal government cross-referencing and automatic enrolment and the update of details of enrolment. For example, at the point of issue or renewal of a driver's license or Medicare card. This reform would do more to counteract the most common form of voter fraud that is currently facing our state than any other. Harsh penalties should be enacted and imposed on all eligible people who actively avoid enrolment.

4. Enrolment on polling day

Enrolment on polling day and the casting of a provisional ballot is a reform that should be enacted without concern that the electoral process is being perverted. The goal of an election is to enact the will of the entire electorate as to who should represent their interests in parliament. The casting of a ballot that is provisional only until such times as the elector's status can be verified is a necessary concession to this end.

4 & 6. Electronic voting & Postal voting

Postal and pre-pol voting already have provisions for assisting the visually impaired and are a safe and effective system of ensuring that elector's voices are heard. The security flaws that dog all publically interacted networks would make the temptation for large scale electoral tampering too attractive to warrant implementation of a remote electronic voting system.

The variety of circumstances which motivate people to apply for a postal vote have steadily increased over previous elections. Presently electors are willing to tell 'white lies' to be granted the right to cast a ballot by post. Rather than 'crack down' on people who are not entirely being truthful about their motivations for applying for a postal vote, an exercise that would be both onerous and fruitless, the necessary conditions for qualifying for a postal vote should be liberalised.

At present in practice anyone who wants a postal vote applies for and receives one. The qualifying conditions necessary for casting a ballot by post should be changed to reflect this reality. This can be achieved without any threat to the integrity of the electoral system. Online postal vote applications or lodgements should not be entertained however because either of these options, like on-line voting, afford the potential for large scale voter fraud. The present system, while labour intensive, discourages voter fraud because of the effort required to pervert the voting intentions of electors one-at-a-time.

7. Compulsory voting

*The Joint Standing Committee on Electoral Matters in its report on the conduct of the 1996 federal election recommended that 'if **Australia is to consider itself a mature democracy**' compulsory voting should be abolished'.*

Page 36 of the 2013 Electoral Reform Green Paper

Compulsory voting is a hallmark of the particular Australian system of representative democracy. Not all Australians have equal means, equal understanding or equal opportunity to serve in the Australian and Queensland parliaments. But compulsory voting ensures that all Australians and Queenslanders have an equal voice before the law in saying who will represent them.

The system of compulsory voting has existed in Australia for over one hundred years and has ensured that Australia has experienced a more stable electoral and governmental system than many of the world's other modern representative democracies. As Australia is not a pure democracy, but a representative democracy, given that a democracy is a rule by the people – rather than by representatives – it is folly to suggest that democratic tenants alone should be the determining factors for reform.

The word 'democracy' itself is often confused and is used by populists attempting to rouse feelings of discontent on all sides of politics. In modern Australian parlance there is little or no agreed meaning. American concepts of republican democracy compete with poorly understood notions of ancient Athenian democracy to overrun the formulation of English Common Law and of parliament to create a general conception of an individual's right or will. This confused and erroneous picture does

not bode well for any attempt to move away from representative democracy to the embrace of a more participatory system.

Australia is a representative democracy that operates within a hybrid-Westminster parliamentary constitutional monarchy. The argument therefore that non-compulsory voting could be the 'magic bullet' employed to bring about democratic maturity is confused at best. If pure democratic maturity is to be the goal of electoral reform then there are many more sweeping reforms that need to be made first.

Rather than democratic maturity then, democratic stability, broadest possible participation and effective governance should be the objective of any modern Australian electoral system. As seen in other nations, wild swings of political extremism are a hallmark of the self-selection of electors. As such the moderating influence of the majority of electors casting their ballots as to who they would like representing them and their interests is the best method of achieving this end.

In his forward to this Green Paper, the Attorney General Jarrod Bleijie states that:

The Queensland Government is committed to ensuring Queensland has an electoral system that meets high standards of integrity and accountability, with fair and effective electoral laws that promote participation in our democracy through political representation and voting.

Nothing could do more to oppose the goal of promoting participation than ending compulsory voting.

8. Voting system

The Optional Preferential Voting system employed in Queensland is one of four systems that are currently employed. These include Optional Preferential Voting in State and Municipal elections in Queensland, Preferential Voting in Federal elections and below and above the line Preferential and Allocated Preferential Voting in Senate elections.

The employment of so many systems is bound to create confusion. There is strong anecdotal evidence from voter interactions at the past two Queensland state elections that some voters are of the impression that Queensland employs the Australian Senate above the line-style of voting method. Thus when they vote 1 for say, either the Greens or Family First, they are under the mistaken impression that their preferences will be automatically allocated to either Labor or the LNP.

The system of Preferential Voting is a viable alternative to the simplistic first-past-the-post or the complicated multiple runoff electoral systems employed in other representative democracies. The confusion created when Queensland moved to Optional Preferential voting has been high. The cost of this move has been a

misapprehension that has led to extinguished votes at a state level and informal votes at a federal level. Optional Preferential Voting should be repealed and Preferential Voting should be reinstated at future Queensland elections.

9. Other matters

There are three glaring omissions from this Green Paper. They are the restoration of a House of Review in Queensland; the establishment of fixed parliamentary terms; and the extension of the current three year term to four years.

The restoration of a House of Review is not currently popular in Queensland, but is a reform that should be considered. A House of Review, particularly one that is appointed through half-chamber proportional elections, would provide an excellent check and balance to the unparalleled power wielded by the Premier of Queensland. It was a cynical act of political expediency that removed the Legislative Council in 1922. It would be a statesman-like act to restore or reform it today. Parliamentary democracy in Queensland would be well-served by such an act.

The establishment of four year fixed terms would bring Queensland into line with other states and would ensure that the power to call a politically expedient early election would be removed from the leader of any particular party. The establishment of the fixed term would not prohibit the Governor from calling an election in the case of emergency, but would otherwise afford the democratic process in Queensland certainty and stability enabling the considered application of good public policy. At present too much of a percentage of the parliamentary term is spent wrangling over anticipatory political positioning or election speculation. Governments that are elected should be allowed space to govern – while being subject to the cross-examination of Her Majesty's loyal alternative government.

If a four year fixed term could be implemented, it would be in the best interests of the Australian public as a whole that all state and territorial elections be held on the same day every four years. While it would require some co-ordination with the other states, surely this minor act of planning would not prove to be an insurmountable exercise.

These pressing reforms are offered without detail for the sake of completeness, but without any expectation of implementation as they were not specifically canvassed in the Green Paper. Further detail would be keenly offered on request.