

Time to Scrap the Ticket Vote for the Senate?

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On election night, October 9 2004, observers from 15 countries¹ gathered in the National Tally Room to examine Australian democracy in action. The integrity of our electoral process enjoys a high reputation worldwide, but a closer look at the above-the-line voting arrangements for the Senate raises a pressing question: how can we justify them in terms of democratic values and respect for the preferences of voters?

It is one thing for a candidate who trails on primary votes to win after distribution of preferences. That's how preferential systems often work. But it's another when deals done by party bosses — and not voters' desires — are responsible for a party with less than two per cent support winning a Senate seat ahead of another which got nearly nine per cent. This happened in the Victorian Senate count at the 2004 federal election.

We need to locate above/below-the-line voting in the domestic electoral context. Australians grow up on preferential voting. In our Upper Houses elected by proportional representation (PR), such as the Senate, this takes the form of the Single Transferable Vote (STV). In effect the STV ballot slip asks voters to contemplate not only who they would most like to see elected, but also two other scenarios: that their preferred candidate/party receives in excess of the votes required, and so has some to spare; or alternatively that their candidate is unsuccessful. What would they like done with their excess/unsuccessful votes?

Now, in reality it's more complicated than that, but the concept of ranking candidates by order of preference is simple and practical. However, nine out of ten Senate voters don't do that anymore, and the reason is above-the-line voting.

¹ Forty official foreign observers attended the Tally Room in total, from Bhutan, Canada, East Timor, Fiji, India, Iraq, Lesotho, New Zealand, Palestinian Territories, Papua New Guinea, Solomon Islands, Thailand, Tonga, the United Kingdom and the United States

From 1949 (when PR was first used in the Senate) to 1983 a voter who wanted their vote to count had to number every box — essentially what we today call the below-the-line option.² The Commonwealth Electoral Legislation Amendment Act 1983, introduced by the new Labor government, and largely arising from recommendations of that year's Joint Select Committee on Electoral Reform³, included reform of the Senate ballot paper, of which above-the-line voting was one part. There had been concern about increasing levels of informal and 'donkey voting'⁴, which were due to growing numbers of candidates, and the onerous task facing voters in numbering every square, using consecutive numbers. It was estimated that three quarters of informal votes were accidental⁵.

So from the 1984 elections onward, Senate ballot slips have had two sections, and a formal vote can be registered using one or the other. Below-the-line involves numbering all squares as before⁶. The new above-the-line section has party groups; voters simply put a '1' next to a group and that group allocates their preferences for them. These are done via tickets registered by the parties (before polling day) with the Australian Electoral Commission. Australians very quickly got used to above-the-line, and roughly 90 per cent now use it. It is of course very simple to use.

But voters have no idea where their preferences flow, and simply rely on the parties to distribute them appropriately. Yes, they can find where their votes are going: the 'tickets' are available on the internet if they know where to look, or they can visit an Australian Electoral Commission office. They are available in polling booths on election day. But very few people take the time, and certainly, just filling out the below-the-line is quicker. (And choosing one box above-the-line even more so.)⁷

² Changes in 1983 relaxed the formality rules for below-the-line voting, allowing limited numbering mistakes by voters.

³ Parliament of the Commonwealth of Australia, *Joint Select Committee on Electoral Reform*, First Report, September 1983, Parliamentary Paper No. 227/1983

⁴ Donkey voting: the voter simply (and indiscriminately) numbers every square consecutively, from top to bottom (or left to right).

⁵ Parliament of Commonwealth of Australia, *op cit*, p62

⁶ Although the rules were relaxed somewhat for what constituted a formal vote.

⁷ See also Marian Sawyer <http://democratic.audit.anu.edu.au/abovetheline.pdf>, June 2004

In reality the parties do ‘deals’ for preferences. And an increasing feature of these ‘deals’ is that they are less based on philosophical or policy considerations, and more on perceived electoral self-interest. These perceptions are also often misplaced.

Family First is the religious party that few outside South Australia⁸ had heard of until mid 2004, and who won a Senate seat in Victoria at the 2004 federal election with a vote of 1.9 per cent. Family First managed to convince hard-heads in most of the main players, and many of the minor ones (though not the Greens), to ‘swap’ preferences with them.

Of course, preferences (in the same electorate/state) are never really ‘swapped’. An agreement is made that whoever either gets a quota first, or drops out first, will ‘give’ preferences to the other. Family First made deals with a plethora of other parties. Some, like the conservative Catholic Democratic Labor Party (DLP), could be seen as fellow travelers, but not so others (such as Labor⁹ and the Australian Democrats). Given the incongruity of swapping the same ‘thing’ with various other parties, we must assume that Family First’s preference negotiators are persuasive. (The labyrinth nature of STV provides cover for smoke and mirror presentations).

Family First’s preference negotiations got them a spot in Victoria with 1.9 per cent of the vote, and almost did the same in Tasmania with slightly higher support.¹⁰

To deal with Victoria first. The narrative is, of necessity, simplified. See also Antony Green’s Victorian Senate count¹¹ from where this data comes.¹²

Of six Senate seats up for election, the Coalition won three, the ALP two, and the race was on for that last spot. From minuscule, Family First’s vote snowballed, first from surplus Coalition preferences, then from minor parties as they dropped out. For

⁸ Family First originates in Adelaide, and won the last Legislative Council spot at the 2002 South Australian election.

⁹ In Victoria, the moral conservatism of Labor’s ultimately unsuccessful third Senate candidate, Jacinta Collins, was also a motivating factor for a preference deal, at least from Family First’s point of view.

¹⁰ Family First received 2.4 per cent in Tasmania at the 2004 Senate election.

¹¹ Antony Green’s election analysis on the ABC website;

<http://www.abc.net.au/elections/federal/2004/results/sendVIC.htm>

¹² The AEC has since updated its numbers and they now differ a little from those used by Green (and used here).

example, at the end of the 214th count, there were 14 candidates remaining, of which the top three were as follows:

Party	Votes
The Greens	273,743
Australian Labor Party	225,337
Family First	58,647

Elimination of the bottom eleven overwhelmingly favoured the Family First candidate Steve Fielding, and so some 70 counts later, the situation was this:

Party	Votes
Family First	309,740
The Greens	305,082
Australian Labor Party	240,408

Labor dropped out next, and its 240 000 odd votes were distributed. About 220 000 were Labor above-the-line votes; they all went straight to Family First, as per the 'deal'. Roughly eight thousand had originally been votes for other small parties above-the-line, and they also went to Fielding.

The other approximately 12 000 were below-the-line votes, and in contrast to the ticket votes, they overwhelmingly (78 per cent) favoured the Greens.

So the final tally for the last seat was:

Party	New Total
Family First	540,012
The Greens	314,729

And Fielding was easily elected.

Now, about 5 000 of those 12 000 below-the-line votes were 'Labor' ones (in that the candidate with a '1' next to them was a Labor candidate). At time of writing it was not possible to state the preference flow of the Labor component in Victoria, but

national estimates have 60 per cent of Labor below-the-line votes preferencing the Greens ahead of the Family First Party.¹³ To overtake the Green candidate in the final count, Steve Fielding needed roughly half those 220 000 Labor above-the-line votes to win. (He got, of course, 100 per cent.) Would as many as one in two Labor voters prefer a Family First Senator to a Green Senator? If that answer isn't clear, remember that Fielding wouldn't have been in the position to receive Labor preferences if he hadn't first received about 52 000 Australian Democrat ticket ones. How would Australian Democrat voters feel about that?

In Tasmania, similar deals were clinched, but votes from below-the-line managed to overturn them and elect the Greens Christine Milne ahead of Family First.¹⁴ Tasmanians, accustomed to proportional representation at their state elections, usually use below-the-line voting at a higher rate than any other state, and 2004, when roughly 20 per cent did so, was no exception. Greens scrutineers reported 63 per cent of Labor below-the-line votes preferences the Greens ahead of Family First. Once again, 100 per cent of above-the-line Labor votes preferenced Family First.

Conclusion

The numerical machinations touched on above are complex, and it is not important if the reader didn't fully understand them. While the voting system is complex, the concept, of numbering candidates according to acceptability, is not. But nine out of ten Australians place this important choice in the hands of the parties themselves, and that 'numbering' often takes forms — that would surprise the voter if only they knew — with no philosophical or political rhyme or reason.

The political persuasion of the parties involved is not relevant to this discussion. The question is how well our electoral system reflects the conscious will of voters.

¹³ So about 40 per cent favoured Family First ahead of Greens. This figure comes from reports of Greens scrutineers. It can never be much more than estimates

¹⁴ See Antony Green on ABC website
<http://www.abc.net.au/elections/federal/2004/results/sendTAS.htm>

The secret ballot was introduced a century and a half ago to guarantee that every vote reflected the will of its voter. The above-the-line option, in the reality it is currently placed — a large numbers of candidates — provides great incentive for Australians to hand their votes over to party apparatchiks. Either a method should be found to ensure voters know what they're buying into above-the-line, or the whole system should be changed.

New South Wales recently acted on this after bizarre election results for its Legislative Council at the 1995 and 1999 elections. It kept the above-the-line concept but did away with the ticket altogether, instead allowing voters to either rank as many party groups above-the-line as they wished, or to rank, as before, individuals below-the-line. This is a good starting point for a change to the system for electing Australian Senators.

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