



Review of *Limiting Democracy: The Erosion of Electoral Rights in Australia*

by Colin A. Hughes & Brian Costar

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Limiting Democracy: The Erosion of Electoral Rights in Australia.

By Colin A. Hughes and Brian Costar, Sydney: University of New South Wales Press, 2006, pp.96, \$16.95.

The Howard government has this year enacted the most far-reaching changes to the Commonwealth Electoral Act since the reforms of 1983. The Howard changes, including early closure of the electoral roll and looser requirements for disclosure of party finance, have been part of the government's agenda for many years. They finally became possible with government control of the Senate.

Colin Hughes, Australian Electoral Commissioner 1984–89, and Brian Costar provide a forensic examination of the reforms of 1983, the rise of activists seeking to undo aspects of those reforms, the mendacity of the case made for the current changes, and the real problems that should have been addressed.

Under the reforms introduced in 1983, which among other things created the Australian Electoral Commission, Australia was widely recognised as a leader in the field. The changes enhanced the non-partisan, professional and independent nature of Australian electoral administration, including the conduct of electoral redistributions to maximise the one vote one value principle.

One of the changes that became a focus for activism related to the closure of the rolls. The Prime Minister, Malcolm Fraser, had broken with convention by closing the rolls almost immediately on announcing the 1983 election. The convention was that there should be a considerable period between the calling of an election and the issuing of the writs, with the closure of the rolls tied to the latter. Fraser instead issued the writs and hence closed the rolls the day after calling the election, depriving many new voters of the chance of enrolment. The architects of the 1983 changes were of the mind that ambushing new voters was not in the spirit of democracy and legislated for a week's grace between the issuing of the writs and the closure of the rolls.

There was mounting agitation in the 1990s that it was 'too easy to get on the electoral roll' and that the rush of enrolments in the week after the calling of an election enabled voters to fraudulently enrol at an address in a marginal seat in order to affect the outcome of elections.

Extensive inquiries, including by the Australian National Audit Office (2002) failed to find evidence of such fraud but lack of evidence did not deter those determined to make it more difficult to get onto the roll. Their activism forms the backdrop to the 2006 changes to the Electoral Act closing the rolls for new voters on the day the writs are issued, or a minimum of 33 days before polling day. This early closure is quite contrary to developments in comparable democracies where every effort is being made to make it easy for new voters to enrol and vote. In Canada they can enrol at the polling place and in New Zealand they have until the day before polling day and may then be reminded by text message from the Electoral Commission to get out and vote.

In Australia, with its compulsory enrolment and compulsory voting, the idea of making it more difficult to enrol is particularly paradoxical. After all one cannot preserve the integrity of the roll by excluding those who should be on it. But it is not just this paradox that exercise Hughes and Costar. They also find offensive the type of arguments put forward by ministerial proponents of the current reforms, who have suggested that no-one criticises as undemocratic the closure of the rolls on issuing of writs in NSW and Tasmania. Of course NSW has fixed-term elections so there is no question of ambushing new voters and Tasmania requires a minimum of five days (it is usually more) between the calling of an election and the issuing of writs.

The issue of ambushing new voters by early closure of the rolls is just one of the current changes to the Commonwealth Electoral Act that take us backwards in terms of our best-practice reputation. Others include the disenfranchisement of all prisoners and making it easier for corporations to make secret donations to political parties. Canada has recently banned all corporate donations, while most democracies at least prohibit certain kinds of donations—such as those by overseas donors or government contractors. Australia seems unique in legislating to make it easier for private money to influence the policies of elected governments, by removing many corporate donations from public scrutiny.

The authors not only provide a cogent demolition of the false problems used to justify the current changes to the Commonwealth Electoral Act; they also outline the real problems that should be addressed. These include the lack of rigorous disclosure requirements for private donors and the escalating incumbency benefits that distort electoral competition. They also, interestingly, raise the issue of the very high (41 per cent) proportion of current Senators who

originally entered the Senate without election. The same 1977 Constitutional amendment that introduced the requirement that casual vacancies be filled by someone from the same party, also quietly changed the requirement for appointed replacements to be up for election at the first available election, instead allowing them to serve the full term of the Senator being replaced. This gave a great incumbency advantage to such non-elected Senators.

Another real rather than fabricated issue is the undemocratic nature of the party preselections that determine who shall be the Member of Parliament in safe seats. While the nature of branch stacking within the Labor Party has been relatively well known, the recent book by John Hyde Page (*The Education of a Young Liberal*) has provided extraordinary revelations about ethnic and other branch stacking within the NSW Division of the Liberal Party. Hughes and Costar make some cautious suggestions about Electoral Commission oversight of party preselections, in line with the kind of auditing role that is now a condition of party registration in Queensland.

This short book is a devastating critique of the recent changes to the Commonwealth Electoral Act. It is on the whole very accurate—Homer only nods on rare occasions. For example, the account (p. 25) of the impact of the 2004 federal election on the entitlements of minor parliamentary parties wrongly suggests that both the Greens and the Democrats lost staff and entitlements as a result of the 2004 election. While the Democrats lost their parliamentary status (worth about 12 staff) they were successful in negotiating for one extra staff member for each Senator, the equivalent of the existing entitlement of Independent Senators, plus a Whip's clerk; the Greens acquired a Whip's clerk for the first time.

Elsewhere (p. 61) the Australian Capital Territory is described as 'outside the tent' of public funding—actually it is the Northern Territory not the ACT that is outside and Western Australia has also just joined those inside. Somewhat surprisingly the authors claim that at the 2004 federal election Labor and the Coalition each received \$40 million in public funding (p. 64). In fact the total paid to all political parties in public funding in 2004 was \$42 million, of which the Coalition received over \$21 million and the ALP around \$18 million. Another minor slip (p. 81) gives 1988 instead of 1996 as the date when the Joint Standing Committee first recommended that all prisoners be denied the vote.

Otherwise, this book is refreshingly well presented and well proof-read. In some places the text has been overtaken by the very trends it describes—for example the printing allowance for federal MPs is now \$150 000 not \$125 000 per annum (p. 63) and almost half may now be carried over for the purposes of an election-year war chest, adding still further to the advantages of incumbency.

Everyone who cares about Australian democracy should read this book—it won't take very long and it will make the reader very angry. While what has happened is bad enough, other threats include moves against compulsory voting and the possibility of intruding further on the independence of the Electoral Commission. In the past Australian electoral administration was the model other countries wanted to emulate while the fragmented and partisan nature of US electoral administration was what everybody wanted to avoid. Now it seems that the Australian government wants to travel down the American route. Let us hope that the current hoopla about 'Australian values' extends to how we do elections and the inheritance of the sea-green incorruptible William Boothby—perhaps the only electoral administrator in the world to be honoured by having an electorate named after him.