

INTRODUCTION

“The people are not there to be served, nor are they there to be helped. The people are there to be manipulated.” Such is the mantra upon which apparatchiks of Australia’s party machines operate. It is the same the world over – in democracies, anyway. For at least ten years (and probably for much longer) Australia’s Commonwealth Parliament has been run by the big party machines, operating under that concept. The politicians put there by the machines no doubt claim to espouse “democratic principles” when they agree to (or resist) a “reform”. More often than not, however, those principles are concocted by the parties to suit their own short-term electoral interests. We know American politicians think like that with their infamous gerrymandering, which one of their Founding Fathers invented. Australia’s politicians play the same kind of tricks when they introduce upper house systems of proportional representation that they have continually been changing to expedite ever more substantial stage-management of the process.

For more than sixty years I have engaged in public debates about Australia’s electoral systems. *The Sydney Morning Herald* of 30 August 1957 carried a letter from me on the filling of Senate casual vacancies. Ever since that time I have been publishing books, scholarly papers and newspaper and magazine articles on this subject – and I have learnt some tricks of the trade. Since politicians enact electoral laws they must be influenced. How can they be influenced? That is an important question since the general public has virtually no say in the matter.

The men and women most long practised at influencing politicians can be found in the Proportional Representation Society of Australia. I am not a member of the PRSA for the simple reason that I am not a fan of PR per se. Where I do value my interaction with them is that I want to see all seven PR systems in Australia made as democratically respectable as possible.

How the PRSA has Influenced Me – and Vice Versa

My conversion to the PRSA way of thinking (broadly speaking) occurred in 1990 in circumstances I now describe. It began with my participation in the electoral reforms of the Hawke Government, which I supported in their entirety. They were implemented in 1983 and first operated at the December 1984 federal elections. In truth I was “taken in” by all the Labor arguments for those reforms and I contributed to them significantly.

By 1990, however, I came to support the PRSA view of the above-the-line voting “option”, introduced by Labor in 1983-84 ostensibly as a means to simplify Senate voting. My view is now clearly stated. Above-the-line voting is a bad idea, but it can be justified in some cases of high district magnitude. The PRSA view has always been that above-the-line voting is unequivocally a bad idea – full stop.

The term “district magnitude” simply means the number being elected in a particular electoral district. For the House of Representatives, the district magnitude is one. For Australia’s two Hare-Clark systems, it is five. For Senate elections it is two, six or twelve depending on the circumstances; two in the territories (the Australian Capital Territory and the Northern Territory), six in periodical elections of senators in each of the six states, and twelve in the states when there has been a dissolution of the Senate.

The Hare-Clark system used in Tasmania gets a high distinction mark from me, but the ACT version of Hare-Clark gets “only” a distinction mark. The Senate system gets the lowest fail mark. It is wholly without virtue or merit of any kind. It represents all that is wrong with Australian electoral law-making. Those who concocted it (“designed it” if one wants to be charitable) were apparatchiks from

big political party machines governed by this mantra: “the people are not there to be served, nor are they there to be helped. The people are there to be manipulated.”

What about the others? The PR system for the New South Wales Legislative Council gets a pass mark from me of 58 per cent, while the South Australian equivalent gets 51 per cent. Why so? The NSW upper house has 42 members elected for eight-year terms by rotation. With 21 elected each time, that is a clear case of high district magnitude. The South Australian Legislative Council has 22 members. With 11 elected each time for eight years by rotation, its mark is lower than for the NSW equivalent, but above-the-line voting can still be justified in some cases of high district magnitude. Those two systems do produce proportional results, with the higher district magnitude being more proportional than the lower. Both systems are quite generous to minor parties, NSW more so than SA.

Thus, the case for electoral reform in Tasmania, the ACT, New South Wales or South Australia is not strong. By contrast, reforms of the the stasiocratic above-the-line PR voting systems of the Senate, the Victorian Legislative Council and the Legislative Council of Western Australia are, in varying degrees, compelling. This is especially so in the case of the Senate voting system. It is highly stasiocratic. Australia’s stasiocracy is government by the machines of big political parties. They run Australia’s democracy, and this is most vividly illustrated by the manipulative Senate voting system. Its ballot paper is voter unfriendly, but party machine friendly on steroids.

When my interest in psephology developed back in the 1950s there was only one Hare-Clark system in Australia, “the original and the best” Tasmanian version, which began its life known as the “Hare-Spence system”. With the passage of time, I hope there will be three Hare-Clark systems, the Tasmanian system designed by Andrew Inglis Clark (1848-1907), the ACT version developed by Bogey Musidlak (see Chapter 7) and that for the Victorian Legislative Council. Each of these systems derives from the thinking of an Englishman Thomas Hare (1806-91). Each system owes much to the thinking of John Stuart Mill (1806-73) in *Considerations on Representative Government*, published in 1861.

Liberal Party Owns the Present Senate Voting System

The idea that the election of senators should be by PR dates from its introduction in 1948 by the Chifley Labor Government. At that time the new Senate voting system was commonly known as “Hare-Clark” but the 1950s and subsequent decades marked the two systems diverging greatly from each other. Each time the Tasmanian Hare-Clark system has been changed it has been made better – more democratic. By contrast each of the two new Senate systems has been worse than its predecessor.

The Chifley system (1949-83) was never quite the Tasmanian Hare-Clark method because casual vacancies were filled differently, and the order of candidates’ names in party columns on Senate ballot papers was still determined by the parties. However, it was genuinely candidate-based. Not so the Hawke system (1984-2014) nor the Turnbull system (2016 to the present). They have been party-based. I supported the Hawke system because I thought it to be an improvement in that for most people voting was made much easier. To the PRSA’s objections I would defend myself by repeating the aphorism “never let the perfect be the enemy of the good”.

The present Senate system is by way of contrast. Although the Liberal Party owns the system, other parties have gained some benefit from its rigging. At the 2016 double dissolution election Senator Nick Xenophon was able to increase the size of his party from one senator (himself) to three senators - as his benefit from the new system. The Greens had in 2010 under the old system been

able to win a Senate seat in all six states – but it took them 13 per cent of the national first preference vote to do that. In 2019, by contrast, they were able to win a Senate seat in all six states with only 10 per cent of the national first preference vote. (See Statistical Appendix to Introduction Table 4.)

For Labor the position is different. It had originally, in May 2014, supported the so-called “democratic reform” wanted by the Liberal Party, Senator Nick Xenophon and the Greens. I lobbied federal Labor politicians extensively against it. That Labor did oppose the Commonwealth Electoral Amendment Bill 2016 I count as one of my achievements. Its opposition changed the course of events. It placed the Nationals in a critical situation. Its votes had to be secured for the bill. To do that the deceitful instructions to voters were inserted – enabling me to denounce the new system more forcefully than would otherwise have been the case.

Not surprisingly, the present parliamentary term has seen me quite unable to persuade Liberal Party members of the House of Representatives to understand how bad the system is. Although most of them start the conversation by saying “I have no objection in principle to what you propose”, they finish the conversation with wholly unconvincing defences of the system the party owns. For Labor’s federal politicians I have had more success – but not as much as I would like. My standard spiel begins like this:

Three years ago there were 26 Labor senators – and today there are still 26 Labor senators. Three years ago there were nine Greens senators – and today there are still nine for the Greens. However, three years ago there were 30 Coalition senators – but today there are 36. The reason is that back then there were eleven senators on the cross benches, but today there are five. All six cross bench losses have gone to the Liberal Party – exactly as the Liberal Party designed with its pretence of “democratic reform”, which Labor had enough sense to oppose.

Furthermore, consider these voting statistics. The Coalition has 47.4 per cent of the senators (36 out of 76) for a Senate first preference vote of 35.2 per cent in 2016 and 38 per cent in 2019, the 2016 figure being mentioned because there was a half-Senate election for six-year terms within the double dissolution election for the whole Senate. Coalition winnings of seats compared with first preference votes (its “over-representation”) greatly exceeds benefits to Labor-Greens in that regard.

For a detailed exposition of my spiel readers are directed to the tables in the Statistical Appendix here. Anyway, it is easy to inform Labor politicians of the extent of benefits to the Coalition from this system. The difficulty arises when I need to explain the benefits conferred on the Liberal Party’s machine compared to those who vote Liberal. The problem is that a benefit conferred by the Liberal Party’s machine on itself also confers a benefit on Labor’s machine compared with Labor voters. The result is that both the Liberal and Labor parties want this system to remain a party machine appointment system, and not a genuine direct election as is required by Section 7 of the Constitution. Labor politicians want the system to be fair in the way it distributes Senate seats between parties – and they know the present system is unfair. But most of them do not want it to be fair between candidates. Some details on this point can be found in Chapter 3, “Proportional Representation in Australia: The Issues.”

A Look at Stasiocratic Ballot Papers

I now set out (and give detailed consideration to) the ballot papers under the two stasiocratic systems, that owned by Labor (1984-2014), and that owned by the Liberal Party (since 2016). To see

them together illustrates the superiority of the Labor system. It helped the great majority of voters to cast a formal vote that would count. The voter was asked merely to place the number "1" above the line for the party and that counted as a formal vote for that party. The ballot paper in question comes from the last election held under that system – the re-election of six senators for Western Australia held on Saturday 5 April 2014 to serve for six years beginning on 1 July 2014. For the great majority of voters that was a voter-friendly ballot paper.

Here is the left-hand one-quarter of the ballot paper.

YOU MAY VOTE IN ONE OF TWO WAYS

Either:

Above the line

By placing the single figure **1** in one and **only one** of these squares to indicate the voting ticket you wish to adopt as your vote

A	or	B	or	C	or	D	or	E	or	F	or	G
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
THE WIKILEAKS PARTY		THE NATIONALS				AUSTRALIAN DEMOCRATS		PIRATE PARTY		AUSTRALIAN LABOR PARTY		AUSTRALIAN MOTORING ENTHUSIAST PARTY

Or:

Below the line

By placing the numbers **1 to 77** in the order of your preference

A	B	C	D	E	F	G
THE WIKILEAKS PARTY	THE NATIONALS		AUSTRALIAN DEMOCRATS	PIRATE PARTY	AUSTRALIAN LABOR PARTY	AUSTRALIAN MOTORING ENTHUSIAST PARTY
<input type="checkbox"/> MESZAROS Tibor THE WIKILEAKS PARTY	<input type="checkbox"/> VAN STYN Shane THE NATIONALS	<input type="checkbox"/> WOOLF Russell	<input type="checkbox"/> FERNANDEZ Chris AUSTRALIAN DEMOCRATS	<input type="checkbox"/> BOYD Fletcher PIRATE PARTY	<input type="checkbox"/> BULLOCK Joe AUSTRALIAN LABOR PARTY	<input type="checkbox"/> HOWLETT Richie AUSTRALIAN MOTORING ENTHUSIAST PARTY
<input type="checkbox"/> NICOL Lucy THE WIKILEAKS PARTY	<input type="checkbox"/> DE GRUSSA Colin Stephen THE NATIONALS	<input type="checkbox"/> JAMES Verity	<input type="checkbox"/> THIEL William AUSTRALIAN DEMOCRATS	<input type="checkbox"/> ALLEN Michelle PIRATE PARTY	<input type="checkbox"/> PRATT Louise AUSTRALIAN LABOR PARTY	<input type="checkbox"/> ZANDVLIET Rob AUSTRALIAN MOTORING ENTHUSIAST PARTY
					<input type="checkbox"/> HILL Shane AUSTRALIAN LABOR PARTY	
					<input type="checkbox"/> ANDRIC Klara AUSTRALIAN LABOR PARTY	



The following points should be made about that ballot paper.

First, the below-the-line instruction was unreasonable – so I now tell the story of a conversation I had with Senator Louise Pratt at her Parliament House office on the afternoon of Tuesday 15 October 2019. At that WA re-election, Joe Bullock (then a non-incumbent) and Senator Pratt were stage-managed by the Labor Party to walk to the same polling place to vote together – in a pretence of friendship between these two candidates. It was shown nationally on the nightly television news. Bullock presumably voted for himself by placing a single number “1” in the Group F box. Pratt, by

contrast, placed the number “1” for herself below the line and then carefully numbered all 77 boxes in correct numerical sequence. Consequently, while they went in together Pratt came out ten minutes later than Bullock. Her formal vote for herself took ten minutes longer than his formal vote for himself.

So, the system was unfair between candidates – but it regularly produced a fair distribution of seats between parties. Moreover, the ballot paper was voter friendly for those choosing to vote above-the-line. Consequently, when, following the 2016 election, a survey was carried out comparing the two systems twice as many respondents answered “It was more difficult to vote under the new system than it was under the old” as answered “It was easier to vote under the new system than it was under the old”. So, there was SOME democratic virtue in that stasiocratic Hawke system.

At that 2014 WA Senate election, 1,277,804 formal votes were cast. That number was divided by 7, giving a quota of 182,543.43. The next whole number above was 182,544. The leading Liberal candidate, Senator David Johnston, received 433,660 first preference votes so was first elected. Bullock received 269,023 so was second elected. Third elected was Senator Scott Ludlam of the Greens with 198,845. After the distribution of surplus votes (251,116 for Johnston, 86,479 for Bullock and 16,301 for Ludlam), and after the distribution of all votes from the “rubbish” candidates the Liberal Party was able to get both its second and third candidates, Michaelia Cash and Linda Reynolds respectively, elected. The remaining seat was filled by Zhenya Wang of the Palmer United Party who began with 156,352 first preference votes and finished with 201,846 total votes. Pratt began with 5,390 first preference votes and finished with 176,042 total votes – so she lost her seat.

The second point I make relates to the Nationals. That system was pretty good for them. The voter just put a single “1” above the line in the Group B box and that would be counted as a first preference vote for Shane Van Styn. When he was excluded, every such vote transferred to Reynolds. The assurance given to Nationals voters on that point was critical to enabling the Nationals to contest WA Senate elections.

The reform most wanted by the Liberal Party would have had the above-the-line instruction read as placing the number “1” in the box above the group of choice followed by “You can show more choices if you want to by placing numbers in the other boxes 2, 3, 4 etc”. The Nationals wouldn’t have a bar of that. It would have effectively meant they could not contest Senate elections separately from the Liberals. Once Labor decided to oppose the “democratic reform” wanted by the Liberals the Nationals’ support became critical. To secure that support the deceitful instructions were inserted.

I proceed to show an example of the ballot paper now in place. Here is the left-hand **one-eighth** of that ballot paper for New South Wales in May 2019. You read the words “one-eighth” correctly: the ballot paper is very long – and very voter-unfriendly.



Senate Ballot Paper 2019
New South Wales – Election of 6 Senators

You may vote in one of two ways

Either

Above the line

By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice).

A



RISE UP AUSTRALIA PARTY

B



HELP END MARIJUANA PROHIBITION (HEMP) PARTY

C



HEALTH AUSTRALIA PARTY

D



NATIONALS
For Regional Australia

LIBERAL & NATIONALS

Or

Below the line

By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice).

RISE UP AUSTRALIA PARTY

NICHOLS
Maree
RISE UP AUSTRALIA PARTY

SHIGROV
Vladimir
RISE UP AUSTRALIA PARTY

TOOP
Leo
RISE UP AUSTRALIA PARTY

HELP END MARIJUANA PROHIBITION (HEMP) PARTY

KATELARIS
Andrew
HELP END MARIJUANA PROHIBITION (HEMP) PARTY

BALDERSTONE
Michael
HELP END MARIJUANA PROHIBITION (HEMP) PARTY

HEALTH AUSTRALIA PARTY

KNIGHT
Molly
HEALTH AUSTRALIA PARTY

FAIRBAIRN
Jason
HEALTH AUSTRALIA PARTY

LIBERAL & NATIONALS

HUGHES
Hollie
LIBERAL

BRAGG
Andrew
LIBERAL

DAVEY
Perin
THE NATIONALS

MOLAN
Jim
LIBERAL

FARRAWAY
Sam
THE NATIONALS

FENELEY
Michael
LIBERAL



I use the expression “deceitful instructions” deliberately. I am in no doubt (indeed I KNOW) that the purpose of the words “numbering at least 6 of these boxes” is to cause the voter to believe that any failure to vote 1, 2, 3, 4, 5 and 6 above the line would result in the vote being lost because it would find its way into the pile of informal ballot papers. The same applies to any ballot paper not showing 1 to 12 below the line. I think voters should be told that it is required by law that any vote being a single first preference above the line must be counted as a formal vote for the candidates of that party. Likewise, a ballot paper showing 1, 2, 3, 4, 5 and 6 below the line counts as a formal vote. I elaborate more on that in my first chapter “Dishonesty the Only Policy”. In short, to the Coalition-controlled 44th Parliament (2013-16) Australian voters owe a new concept of legislating from the sewer of politics.

In my second paragraph above, under the heading “Liberal Party Owns the Senate Voting System”, I describe this system as “highly manipulative”. The point is that voters find it un-natural to vote 1, 2, 3, 4, 5 and 6 above the line in a lengthy ballot paper like this. It is natural to want to do what we did successfully for thirty years under the Labor system - just vote “1” above the line for a party. This deception is part of an apparatus of voter manipulation that began in 1984 under Labor’s system. There was, however, some merit in the Hawke system. It reduced the Senate informal vote to one-third of what it had previously been.

By contrast the Turnbull (Liberal Party) system IS WHOLLY WITHOUT VIRTUE OR MERIT OF ANY KIND – except for the big-party machines that have been given new ways to manipulate voters, at no cost to themselves.

The Hawke (Labor Party) system had three contrivances that turned a system of direct election into a party machine appointment system in which voters are manipulated into believing that the purpose of one’s vote is to help distribute numbers of party machine appointments. That distribution was meant to be by a form of proportional representation between parties. The first Labor contrivance is the thick black line running through the ballot paper. It is known as “the ballot dividing line”. The second Labor contrivance is the set of party boxes above the line. Those two contrivances being convenient to the Liberal Party’s machine they continue under their new management. The Liberal Party is expert at knowing how to cherry-pick between contrivances.

The third Labor contrivance was the Group Voting Ticket. From the start it was hated by the PRSA, but acceptable to all the parties for thirty years. It was also accepted by virtually all the independent electoral analysts. However, at the September 2013 half-Senate election, the Liberal Party lost a Victorian senator. She was Helen Kroger and she lost her seat to Ricky Muir of the Australian Motoring Enthusiasts Party. That created the propaganda campaign enabling the Liberal Party to get rid of the Group Voting Ticket – and rig the system in its own favour.

Relegating a Senator to an Unwinnable Position on the Ticket

Readers are invited to look again at the NSW ballot paper above. The Coalition stood six candidates, only one of whom was a sitting senator. He was former Major-General Jim Molan AO DSC. The party machine assumed, correctly, that the change in the Senate voting system would not disturb the ability of the machine to defeat a senator the party machine wanted to defeat. It knew perfectly well that this was not a genuine democratic reform.

So, Molan was defeated by the system and by the Liberal Party’s machine, which exploited its own system to teach him a lesson. That is a lesson for all future “rogue” senators from either the Liberal Party or the Labor Party. The instructions to voters play their part because they greatly increase above-the-line voting across parties – done by deceiving voters to help the big-party machines.

Owned by the Liberal Party and not by Labor, the deceitful instructions to voters help the machines of both parties to keep the system as a party machine appointment system. However, there is one confident prediction I can make. The next federal Labor government will try to get rid of the deceitful instructions. They are of no use to Labor which could get rid of them and moralise while doing it. I believe Labor will succeed in that.

The senators elected were (in order of election) Hollie Hughes (Liberal), Tony Sheldon (Labor), Andrew Bragg (Liberal), Tim Ayres (Labor), Perin Davey (Nationals) and Mehreen Faruqi (Greens). That was a predictable result – so predictable I predicted it.

I now describe the count. The quota for election was 670,761 votes. The total formal vote was 4,695,326 of which 1,810,121 was for the Coalition (38.6 per cent) and 1,400,295 was for Labor (29.8 per cent). Within the Coalition the votes begin with the lead candidate, Hughes, who scored 1,664,188 votes of which 28,336 were cast below the line. The remaining votes were 2,533 first preferences for Bragg (elected), 3,030 for Davey (elected), 137,325 for Senator Molan (defeated), 959 for Sam Farraway (not elected) and 2,086 for Michael Feneley (not elected).

So, Molan scored 54 first preference votes for every one for Bragg and 45 such votes for every one for Davey. Molan was the highest-ranked former military commander to enter any Australian house of parliament for sixty years. He stopped the refugee boats. But being so well qualified was of no use to him under this party machine appointments system. The machine did not want him, so it defeated him. Yet the sickening description of the result is that Bragg and Davey were declared “directly chosen by the people”, but Molan was declared to have been rejected by the people. An unauthorised campaign was waged for him under the illusion that he had a chance. Realists would have known he never had a chance.

Soon after Molan’s defeat Liberal Senator Arthur Sinodinos resigned his seat to become Australia’s Ambassador to the United States. On Sunday 10 November 2019, therefore, the party’s NSW council met in Sydney and, by 321 votes for Molan to 260 for the losing candidate, the 581 delegates chose Molan for the casual vacancy. He agreed to stand down at the next election, meaning his term would expire on 30 June 2022. He was given a consolation prize! Under any half-decent voting system, however, he would have been elected to a full six-year term expiring on 30 June 2025. The Parliament of New South Wales chose him for the vacancy on Thursday 14 November and he returned to the Senate on Monday 25 November. My view on all that was expressed in *Switzer Daily* on Wednesday 13 November under the self-explanatory title: “Three cheers for Senator Jim Molan”. I noted, among other things, that 137,325 first preference votes from ordinary people were not enough under the Liberal Party’s Senate electoral system to make him an *elected* senator, but 321 votes from party activists made him an *appointed* senator.

There are people in the Liberal Party who object to me referring to “the machine” when the selection committee was quite large – with some 600 party members able to participate. This is my response. On the first occasion I met Molan, in his Senate office on Monday 2 December 2019, he told me the whole story of his becoming a senator. He told me that the original committee, in early 2016, had only 108 members. That committee placed him in the unwinnable fourth position when the election was expected to be for half the Senate late in 2016. When that expected half-Senate election changed into a full Senate election the party’s State Executive decided he should be given the unwinnable seventh place for the July 2016 poll. That the size of the Senate selection committee expanded five-fold was, he told me, due to party reforms for which he (and Tony Abbott) had long campaigned. In any event those reforms could easily be reversed. That being so I think I am quite correct to refer to “the machine” and to describe this system as being, *de facto*, a party machine

appointments system. The rigging of the ballot paper is designed to get around the inconvenient requirement of Section 7 of the Constitution that senators be directly chosen by the people

Politicians Moralise – and so do I

Reviewing this whole exercise of mine I am struck by the number of times I have complained about politicians moralising when they do something of which I disapprove. At times I have even described a politician as “sanctimonious”. It occurs to me that they might try to return the insult by accusing me of moralising and of being sanctimonious.

My response is this: there is no single moral high ground but several Australian psephologists can claim to stand on their own moral high ground. What such men and women can claim is an ability to explain proposals in genuine democratic terms – and to answer questions honestly and without spin. The psephologists to whom I refer are almost entirely members of, or a former member of, the PRSA. Where I have an advantage over them is that I have the letters AO after my name and the citation for my AO refers to my commitment to reform or improvement of the electoral system. That means people take me seriously when I claim to stand on the moral high ground.

I am not unique as a psephologist in having the AO award. At least two supporters of the Senate voting system have that - and both men deserve the AO for the reasons stated in each citation, which in neither case makes reference to any commitment to reform or improvement of the electoral system. Readers will meet them as they read on. My initial comment is that their defence of this system I hate would not pass any pub test. For example, their refusal to describe the instructions as deceitful would cut no ice with any voter to whom the instructions are properly explained. Furthermore, their willingness to own the system leads them to describe those politicians that also own it in ways that are not convincing. For the time being I say this: none of the four contrivances are on the Senate ballot paper for the benefit of voters. All four are there for the benefit of the machines of big political parties. That is especially true of the deceitful instructions. There is no such thing as the politician who deceives the voter for the voter’s own good.

Winston Churchill once made the famous quip: “The Americans can always be relied upon to do the right thing – but only after they have exhausted every alternative”. I hope to live to see the day when I can say: “Australia’s federal politicians can always be relied upon to do the right thing – but only after they have exhausted every alternative.”