

# LARGEST REMAINDER

(Not quite Quota Notes)

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## Editorial

At the 2010 Federal election some ballot boxes in the electorates of Flynn and Boothby were opened by polling officials before the close of voting. *That was wrong and should not have happened.* The problem occurred because pre-poll voters no longer needed to vote as a form of postal voting, with the ballots secure inside declaration envelopes, but were able to place their loose ballot papers into ballot boxes. Over-enthusiastic polling officials opened the boxes to make more room. We congratulate the Australian Electoral Commission (AEC) for commissioning an investigation into the error and adopting procedures to ensure that the occurrences are not repeated.

However, the Joint Steering Committee on Electoral Matters is recommending that if in future any ballot box is opened prematurely then every ballot paper inside that box be set aside and not be included in the count.

Why is their first response to deny voters the right to have their vote counted?

Why adopt a measure that would reward any potential perpetrator of wrongdoing?

If a junior polling official opens a ballot box to retrieve a set of car keys for a voter, are a thousand ballot papers then automatically worthless?

We believe that the first response to any inappropriate action during the conduct of any election should be to maintain, as far as possible, the fundamental right of the voter to have their vote counted. To this end we

submit that proposed section 238B (and its referendum analogue) should not be enacted.

Instead, we submit that a better response to this issue – and one that will have an outcome more consistent with the policy of electoral inclusion – is to grant discretion to polling officials to accept or exclude ballots from incorrectly opened ballot boxes.

Once noticed, the prematurely opened ballot box should be resealed, kept separate and not counted. A report outlining the details of the event should be submitted by the Booth Returning Officer to the District Returning Officer for his or her consideration. Party scrutineers should be asked if they wish to submit supplementary reports and, if they do, these should also be included with the report to the District Returning Officer.

Having assessed the incident, the District Returning Officer should make a decision but should start with the *presumption that ballot papers should be included rather than excluded.*

In Australia, the AEC is renowned for its independence and integrity. We submit that a better response – rather than heavy-handed automatic exclusion – is to allow the District Returning Officer full discretion in resolving the situation.

- Electoral Reform Australia's submission to the Joint Steering Committee on Electoral Matters: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=em/improvingelectoraladmin/subs.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/improvingelectoraladmin/subs.htm)
- A transcript of the proceedings of the teleconference held on February 4: <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommjnt%2F15716a32-9355-45b5-ad06-6459e1f7afbe%2F0000%22>

## Compulsory Marking of Preferences: the Australian Disease

by Stephen Lesslie

*Few intellectual tyrannies can be more recalcitrant than the truths that everybody knows and nearly no one can defend with any decent data (for who needs proof of anything so obvious).*

*Stephen J. Gould*

In the April edition we examined the “truth” that STV electorates must contain an odd number of members.

In this edition we examine the “truth” that in a STV election voters must indicate preferences for more than one candidate.

In STV elections in Australia, this number varies from all candidates to at least half of the candidates to be elected. Only in the Australian Capital Territory (ACT) is a vote valid if only one preference is marked.

Even the PRSA, as can be seen in the following extract from the PRSA’s website, is unable to support the use of fully optional marking of preferences. Note the unintended irony in the heading!

*Inadvisability of Imposing Constraints in Proportional Representation Elections*

*Preferable Means of Encouraging Diversity: A far fairer way of encouraging diversity in a representative body is to couple the maximum use of a quota-preferential system of proportional representation with the minimum use of devices like those, which the history of Australian Senate ballot-paper designs demonstrates, attempt to arbitrarily or subtly distort voters' preferences. This includes Group Voting Tickets, and unnecessary formality provisions for the full marking of all preferences rather than a requirement that a minimum number of preferences equal to the number of positions to be filled is required. (our emphasis)*

Why have this regimentation forcing voters to vote for more candidates than they may want to?

Where are the democratic rights of Australian voters in all of this? What gives anyone the right to say, “even though you have given a clear and unequivocal indication of the candidate or candidates of your choice we will not count your ballot paper?”

This appears to be an Australian disease. Fully optional preferential voting is allowed in Ireland and Malta, the only two countries which elect their national governments by STV, and the author has been unable to find any instances outside Australia where the compulsory marking of preferences is a requirement.

The reason for the insistence on compulsory marking of preferences seems to be to ensure that votes do not exhaust (full marking of preferences) or to reduce the number of exhausted votes (partial marking of preferences) during the count. However, no consideration is given to the consequent increase in the number of informal votes caused by the increase in the complexity of the ballot. Have any studies been undertaken to determine whether the forced marking of preferences actually does reduce the incidence of exhausted votes?

Fortunately, the ACT does allow for fully optional preferential voting and this gives us an opportunity to examine the recent ACT election to observe the effect of exhausted ballot papers on the outcome. Although the ballot paper for the Molonglo electorate states, “Number seven boxes from 1 to 7 in the order of your choice”, and for Ginninderra and Brindabella, “Number five boxes from 1 to 5 in the order of your choice”, any vote with at least one preference is considered formal.

### **ACT Election 2012: Electorate of Molonglo**


- STV Election for seven (7) positions
- 28 Candidates
- 6 Groups and 2 ungrouped candidates
- Informal Vote 2.9%

Katy Gallagher (Labor) was elected on the

first count with over a quota. Her surplus was distributed and there were no exhausted votes. Naturally there had to have been votes which gave Gallagher only a single 1 but these votes remained with Gallagher and the surplus was carried by the other votes. After her surplus was distributed, no other candidate had a quota; candidates were then excluded from the bottom.

After sixteen candidates had been excluded and two more candidates were elected, having obtained quotas, Tim Bohm (Bullet Train for Canberra) was excluded at count 37. He was the last of the minor party and ungrouped candidates left in the count and his vote had

candidates in the hope that at least one of the minor party candidates could garner sufficient votes to be elected. These votes would have complied with the more restrictive formal requirement of preferencing as many candidates as required for election but would still have exhausted. At this point in the count there were 1459 (1.6%) exhausted votes. This is surely a very low exhaustion rate and must indicate that the voters in the ACT, at least those voting for minor party candidates, are comfortable with, and able to make, informed choices in their voting. This pattern of very few votes exhausting as minor party and ungrouped candidates were

  
 Ballot Paper Election of 7 Members 2012 Legislative Assembly for the Australian Capital Territory

### Electorate of Molonglo

**Number seven boxes from 1 to 7 in the order of your choice**

You may then show as many further preferences as you wish by writing numbers from 8 onwards in other boxes

A THE ACT GREENS	B LIBERAL DEMOCRATIC PARTY	C AUSTRALIAN MOTORIST PARTY	D CANBERRA LIBERALS	E BULLET TRAIN FOR CANBERRA	F ACT LABOR	UNGROUPED
<input type="checkbox"/> Adriana SIDDLE	<input type="checkbox"/> Ian GARDNER	<input type="checkbox"/> David CUMBERS	<input type="checkbox"/> James MILLIGAN	<input type="checkbox"/> Shelley DICKERSON	<input type="checkbox"/> Mark KULASINGHAM	<input type="checkbox"/> Stuart BIGGS
<input type="checkbox"/> Alan KERLIN	<input type="checkbox"/> Trisha JHA	<input type="checkbox"/> Mark CURRAN	<input type="checkbox"/> Steve DOSZPOT	<input type="checkbox"/> Tim BOHM	<input type="checkbox"/> Meegan FITZHARRIS	<input type="checkbox"/> Philip POCOCK INDEPENDENT
<input type="checkbox"/> Shane RATTENBURY			<input type="checkbox"/> Murray GORDON		<input type="checkbox"/> Simon CORBELL	
<input type="checkbox"/> Caroline LE COUTEUR			<input type="checkbox"/> Elizabeth LEE		<input type="checkbox"/> Angie DRAKE	
			<input type="checkbox"/> Tom SEFTON		<input type="checkbox"/> David MATHEWS	
			<input type="checkbox"/> Jeremy HANSON		<input type="checkbox"/> Andrew BARR	
			<input type="checkbox"/> Giulia JONES		<input type="checkbox"/> Katy GALLAGHER	

Remember, number at least seven boxes from 1 to 7 in the order of your choice

increased from 2218 to 5464 votes. All these extra votes came from voters who initially chose another candidate. 4591 of Bohm's votes were transferred to other candidates and only 873 votes exhausted. 84% of his votes found a continuing preference despite the fact that he was the last candidate left in his own group and nineteen candidates were unable to receive preferences, three having already been elected and sixteen excluded.

It is also worth noting that there were eight minor party and ungrouped candidates contesting the ballot in Molonglo. Some voters may well have preferenced all of these candidates and none of the major party

excluded was repeated in the other two ACT electorates. Very few votes exhausted while there were candidates still 'alive' in the same group.

The argument that fewer votes would exhaust if it was compulsory to vote for as many candidates as required for election should be treated with caution.

The first consequence of such a requirement is that every group would run at least as many candidates as required to ensure the vote is formal. In Molonglo, eighteen more candidates would have contested the election; this increase in the number of candidates would increase the informal vote.

The second consequence is that many voters would stop numbering because every group would have seven candidates and the number of votes exhausting as parties were excluded would actually rise.

This can be observed in the seat of Molonglo. When Simon Corbell, the last remaining Labor candidate, was elected he had a surplus of 1278 votes but 921 votes exhausted (in the count they are treated as loss by fraction). At this stage there were five candidates (3 Liberals and 2 Greens) vying for three positions and whilst these 921 votes would not, this time, have changed the party representation in Molonglo they could have changed the individuals who were elected.

Had the Labor Party only run six candidates, or the heavy handed instruction “Number seven boxes from 1 to 7 in the order of your choice” on the ballot paper been different, then many of these Labor voters may have been encouraged to continue voting outside of the party grouping.

An incorrectly marked ballot paper is informal as soon as it is placed in the ballot box, but an exhausted vote does not manifest itself until all the candidates preferenced are excluded from the ballot. In an optional preferential ballot, a vote that would be declared informal under more stringent rules remains in the count for every winning candidate and the first runner-up. Had the electorate voted differently then different votes would exhaust – every exhausted vote therefore has the potential to remain viable and not exhaust. Surely it is the democratic right of every voter to have their vote considered until the last possible moment?

### Conclusion

Compulsory marking of preferences has consequences. A requirement to preference every candidate results in an excessive number of informal votes. A requirement to preference a set number, say the number of candidates to be elected, results in an increase in the informal vote and an increase in the number of candidates contesting the ballot. It also increases the likelihood that many of these candidates will be makeweight candidates (who actually don't want to be

elected), and, paradoxically, a likelihood that the number of exhausted votes will actually rise. Both of these options also undemocratically deny voters the right to have their vote counted.

We need to eradicate this Australian disease from our body politic. The Irish, Maltese and ACT policy of treating voters with respect needs to be followed in every Australian jurisdiction.

[N.B. Above-the-line voting, either with or without group voting tickets, is not the answer. The distortion this causes to the democratic expression can be, and has been, easily seen by the election of candidates with miniscule support. It will be the subject of a future article in this newsletter.]

## Adelaide City Council Discriminates Against Plutocrats!

Adelaide City Council currently chooses its Lord Mayor and Councillors in five separate elections: one for Lord Mayor; one for 5 Area Councillors; and three ward elections electing 2 Ward Councillors each.

Is this system fair? Are all plutocrats treated equally?

### Councillor Election

Consider the influence of the following voters in the election of councillors:

**Voter A** *Net worth \$500,000*

Owns, with the bank, two small rental properties in two different wards and lives with his parents in the third ward.

**Number of Votes = 5**

(1 Mayoral; 1 Area Councillor; 3 Ward Councillors)

**Voter B** *Net worth \$10 million*

Owns two factories in different wards and lives on Kangaroo Island

**Number of Votes = 4**

(1 Mayoral; 1 Area Councillor; 2 Ward Councillors)

**Voter C** *Net worth \$100 million*

Owens three office blocks in the central business district and lives in the penthouse of one of them.

**Number of Votes = 3**

(1 Mayoral; 1 Area Councillor; 1 Ward Councillor)

Is that fair?

No, it is seriously undemocratic. Multiple voting went out in the nineteenth century. In a democracy, all plutocrats, and indeed all voters, should be treated equally.

**Solution**

Abolish all wards and elect all the Councillors as Area Councillors; every voter then gets one vote for Mayor and one vote for the Councillors.

**Advantages**

1. Every voter is treated equally.
2. Every Councillor has the same responsibilities. It is worth noting the following extract from Adelaide City's website, "The Lord Mayor and Councillors are elected by voters across the Adelaide City Council, and have a responsibility to the City as a whole." The suggested electoral arrangement eliminates any potential conflict a Councillor may have between ward and city responsibilities.
3. Councillors no longer need to decide which election they will run in.

**Lord Mayoral Election**

Adelaide City Council prevents candidates from running for both Lord Mayor and Councillor positions. This has major disadvantages.

Consider the following scenarios.

**Scenario 1**

Two highly experienced candidates run for Lord Mayor. One will lose and his/her experience and expertise will be lost to the Council.

**Scenario 2**

The less popular party/group runs a dud as

their Lord Mayoral candidate because they do not want a valued member of the group to lose. The result is that the dominant group wins an easy election and the voters are denied an honest choice.

**Scenario 3**

The less popular party/group runs a dud as their Lord Mayoral candidate but an unexpected change in voting patterns sees that candidate elected as Lord Mayor. Now the City has a dud as Lord Mayor and the services of the experienced losing candidate are lost to the city.

The voters of Adelaide City deserve to be able to choose between the best candidates the parties or groups can put up.

**Solution:**

No candidate should be elected Lord Mayor unless they are also elected as a Councillor. This should not be a problem as election for Lord Mayor would require over 50% of the vote and a quota for election as a Councillor, in a ward of ten or more, is less than 10%. Furthermore, all groups would be comfortable in running the leaders of their teams – their most able and experienced candidates – as their Lord Mayoral candidates.

**Future Meetings**

The next meeting will be held on Monday 18 March 2013 at 7.30pm.

Anyone is welcome to attend. For details, please contact Susan Gregory at [president@electoralreformaustralia.org](mailto:president@electoralreformaustralia.org) or on 9181 5185 for the relevant information.

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Comments and/or contributions are welcome:

[president@electoralreformaustralia.org](mailto:president@electoralreformaustralia.org), or

Electoral Reform Australia

74 Thompson Street

Drummoyne NSW 2047

**Electoral Reform Australia officers**

Susan Gregory – President

Stephen Lesslie – Vice President

Mark Rodowicz – Vice President

Patrick Lesslie – Secretary/Treasurer

*Electoral Reform Australia is the NSW Branch of the Proportional Representation Society of Australia*