

**From:** [REDACTED]  
**To:** [Legal Affairs and Community Safety Committee](#)  
**Subject:** submission-Electoral (Voter's Choice) Amendment Bill 2019  
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To the Legal Affairs and Community Safety Committee regarding the Electoral (Voter's Choice) Amendment Bill 2019,

I agree with the legality of this bill but i have many reservations about its intent. We have a unicameral government in Queensland. In some state and federal elections where senate/upper house candidates run into the hundreds this bill would be appropriate. For most electorates in Queensland, being able to count to ten hardly seems like an impediment for most Australians. If it is an impediment then the government is required to assist voters to vote if they request assistance. This was clearly explained in [CRPD/C/19/D/19/2014]. I would argue that although this decision was specifically in reference to physical disability, the principles upon which the ruling is based are such that lack of education, language barriers or any other measure of inequality must be addressed by the state to ensure equal opportunity at the ballot box. The EARC report also states, "The Committee considers that certain matters be treated as a priority for review, namely Queensland's electoral obligations under international law, further facilities and services for members to overcome problems for electors prejudiced by remoteness, poverty, language difficulties, ill health or otherwise, and entrenchment of the electoral system."

The very nature of preferential voting is such that people who would choose to vote in an optional preferential vote would be disadvantaged, their ballot being prematurely exhausted. The contention that allowing OPV promotes freedom of choice is contradictory to the fact that if someone cannot understand how to number their preferences effectively, they will be unlikely to understand how their ballot is devalued by it. One of my favorite parts of the election cycle is engaging in a Socratic dialogue with the staff at the polling booth, asking how preferences work and watching them struggle to explain it. The strength of preferential voting, the reason it has been adopted and is encouraged to be adopted universally is that voters effectively vote against the party they most dislike by placing them last. It is the essential protection granted by it that would be undermined by the introduction of OPV.

I respectfully disagree with the reasoning of the honorable member Mr Janetzki,

"restore public confidence in the electoral system by reintroducing a voting system recommended by the Electoral and Administrative Review Commission, which was established upon recommendation of the Fitzgerald Inquiry."

Firstly I must quote the full section of the Fitzgerald inquiry in regards to what was actually being discussed, corrupt public servants manipulating the election boundaries,

"A Government in our political system which achieves office by means other than free and fair elections lacks legitimate political authority over that system. This must affect the ability of Parliament to play its proper role in the way referred to in this report. The point has already been made that the institutional culture of public administration risks degeneration if, for any reason, a Government's activities ceased to be moderated by concern at the possibility of losing power.

The fairness of the electoral process in Queensland is widely questioned. The concerns which are most often stated focus broadly upon the electoral boundaries, which are seen as distorted in favour of the present Government, so as to allow it to retain power with minority support.

Irrespective of the correctness or otherwise of this view, the dissatisfaction which is expressed is magnified by the system under which electoral boundaries are determined. It has not always been obvious that the Electoral Commissioners were independent of the Government. Submissions and other material upon which the Commissioners have proceeded have been secret. The Commissioners did not report to Parliament, but to the Premier.

There is a vital need for the existing electoral boundaries to be examined by an open, independent inquiry as a first step in the rehabilitation of social cohesion, public accountability and respect for authority. Such an inquiry should be conducted by a person or group of people of undoubted integrity whose judgment will be acceptable to all political parties and the general community. It should be allowed to do its task unfettered by predetermined restrictions."

As a result, the following terms of reference were issued:

- (a) whether the State should be divided into any and if so how many and what zones of representation:
- (b) the name or other means of identification of each such zone (if any):
- (c) the number of electoral districts into which the State and each zone (if any) should be divided;

- (d) the name or other means of identification of each such electoral district;
- (e) the distribution of electoral districts throughout the State and each zone (if any);
- (t) the location of the boundaries of each electoral district and each zone (if any);
- (g) the compilation of electoral rolls of the electors of each electoral district;2
- (h) the margin of allowance (if any) between the numbers of electors in each electoral district;
- (i) such matters as the Commission considers pertinent to the Legislative Assembly electoral system.

Under the, *anything-else* provision that distinguishes this part of the report as being unrelated to the findings of the Fitzgerald inquiry the honourable member neglected to mention that there were arguments for and against OPV. Notably OPV was seen to be a defacto corruption of PV into first-past-the-post. Those in favor of OPV also held an absolutist conception of freedom, favoring the abolition of compulsory voting, referring to, "a blank ballot paper or one marked only with an obscenity," as protest votes against compulsory voting but this was a misunderstanding that voting is compulsory rather than mandatory attendance to ensure maximum secrecy of the ballot. I remind the members of this committee that a lack of political participation is not a vote of passive acceptance of the status quo but a powerful barometer of public trust.

The ALP made an argument, in their submission to the EARC, for OPV, "...if a voter's intention is clear. The vote is formal only to the extent that the voter's intention can be discerned." This particular argument is quite compelling. From this perspective alone I approve of this bill. Not numbering all the boxes, an error in the numbering sequence or otherwise an occurrence of illegibility is not a valid argument for dismissing an elector's choice for representation. To dismiss a ballot when a reasonable person can clearly determine the intent of the elector is contrary to the very foundations of our democracy. In ancient Greek democracy, a man was strongly advised to first receive tuition before presenting himself to the assembly lest he fall foul of public opinion and be subject to ostracization, be cast out of the city and thereby have their political rights revoked. This is not modern democracy. This is not Australian democracy.

The Australian Constitution clearly states,

"The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth,"

"Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives."

To discriminate due to political illiteracy is not provided for in the constitution. No matter the level of political illiteracy, no matter how uninformed the elector, no matter how poor the elector's reasoning, no matter what difficulty they face fully exercising their political duty for any reason, the principle of one vote one value must be adhered to. In Australia nobody is required to vote, only to attend the polling place and this ensures the greatest level of secrecy for the ballot. Preferential ballots are not one vote but provide an opportunity for multiple votes. Should an elector choose to only cast a single vote in the form of a single preference, that vote must be respected.

I completely reject the arguments presented by the AEC report, Exhaustion—Senate Ballot Paper Study 2016,

"Exhaustion is a standard feature of PPV or Optional Preferential Voting (OPV) systems. It can even be a feature of some notionally FPV systems such as the 1983 Senate voting system, albeit on a much lower scale. While, as noted above, an exhausted ballot paper may help to elect one or more candidates, once a ballot paper or vote exhausts it will not affect the election further except by helping to determine the quota.

It is therefore easy to conceive of an exhausted ballot paper as lost or wasted, or to think of exhausted votes as being less effective than fully preferred ballot papers. There is an argument that the more preferences there are on a ballot paper the more 'effective' or 'powerful' it is.

However this is a subjective argument. An exhausted vote is by definition formal, and has expressed the electors stated preferences. An elector may reach the conclusion that if the candidates they have numbered are not elected, they do not wish their vote to assist in the election of any other candidates. This is, potentially, as valuable to an elector as their stated preferences."

Fully preferred voting must be encouraged as providing the maximum level of choice and political engagement in order to ensure the *Commonalty* is represented by their most preferred candidate and not by their least preferred candidate. It would be irresponsible and disloyal for any public servant to represent a less than fully preferred ballot as a preferable or equally effective expression of their political rights. The choice to do so however must be respected as an equally valid expression of their political rights. It is important to express these arguments so as to clear up confusion regarding the intent of the bill.

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