

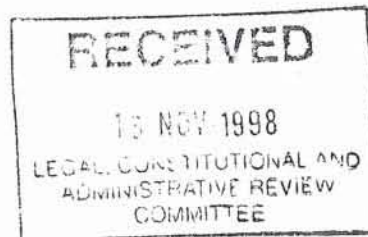


SUBMISSION NO 40

SD  
20/9/99

LAID UPON THE TABLE OF THE HOUSE

THE CLERK OF THE PARLIAMENT



13 November, 1998

Chair and Members,  
Legal Constitutional and Administrative Review Committee

Re: How to Vote Cards (your Inquiry into Issues... Raised in the Mansfield Decision)

Honourable Members,

As this submission is late, I will keep it short - but I do have a few points to make.

1. In the first place, I submit that parties should not be allowed to issue "how to vote" cards, or anything similar, on polling day at all. Now that party affiliations are printed on the ballot papers, a voter who wants to vote for a particular party but is ignorant of the candidates' affiliations needs no further assistance. A voter who wishes to express preferences beyond the number 1 should have some idea of which other candidates or parties have views similar to his/her preferred candidate or party, and be able to work out an order of preference. "How to vote" cards create litter and give organised parties an advantage over independents in that they cost money to print and require the candidate to have workers at every booth in an electorate. Parties and candidates can hardly be prevented from advising their supporters how to distribute preferences in pre-election advertising (which can be quite cheap in local weeklies), but on polling day the voters should be left to their own devices (with the assistance of party affiliations opposite candidates names on the ballot paper).

2. If, contrary to my first recommendation, some sort of cards are still to be allowed on polling day, there should be a ban on the use of the terminology "how to vote [party name]". The use of this phrase is, first, factually misleading and deceptive, There are *many* ways in each electorate to effectively vote for the ALP, or the Liberal Party, or anyone else. Taking my own electorate of Sandgate as an example, where there were six candidates, one could vote for the ALP by voting 1 Nuttall, and numbering no more squares, *or* by giving one further preference, or two, three, four or five further preferences *in any order* - any of them would have been a vote for Gordon Nuttall. Yet the "how to vote ALP" card showed just one way - and the Liberal Party card likewise. More importantly, the use of this phrase is, I believe, a deliberate attempt, by those issuing the cards, to hide from the more ignorant voters the fact that the way they number their subsequent preferences (if any) is entirely up

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to them. That way, preference "deals" can be made between parties with some confidence that a high percentage of the preferences can be "delivered" - but voters' preferences are not the property of the parties and should not be treated as such. If parties are still to be allowed to hand out advice to voters on polling day, the use of the language of "how to" vote for a particular party should be banned, and they should be made to use the language of "advice" or "recommendation". The cards should be required to contain a reminder, in print no less than half the size of the biggest print on the card (which is generally the party name) along the following lines:

This is a recommendation only. Your choice of which candidate to place first, and which candidates (if any) to give other preferences to, is entirely up to you.

Further, the press should be discouraged from using language such as "directing" preferences and "exchanging" or "swapping" preferences, and encouraged to use the language of recommendation as well.

3. If my above submission is accepted, the need for second preference cards should be greatly reduced. However, given the current system where parties are permitted to issue so-called "how to vote" cards, the use of "second preference" cards is a necessary corrective. If a minor party has issued the misleading advice that the (impliedly, only) way to vote One Nation is to vote 1 Harris-Gahan, or that the (impliedly, only) way to vote Green is to vote 1 Alderson 2 Reeves, etc, (names taken, as you will recognise, from the Mansfield poll) then the other parties *must* in fairness be allowed to put out cards saying "this is how you vote 1 One Nation, 2 Labor", or "1 Green, 2 Liberal" or whatever. However, this should be permitted only if it is done in a way which is not misleading. Mr Justice Mackenzie's suggestion at par 153 of the judgment in *Carroll v ECQ & Reeves* would go a long way to ensuring that aim.

Sincerely,



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