LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE 2016 ACT ELECTION AND ELECTORAL ACT
Ms Bec Cody MLA (Chair), Mr James Milligan MLA (Deputy Chair)
Ms Caroline Le Couteur MLA, Ms Tara Cheyne MLA, Mr Andrew Wall MLA

Submission

Name – Malcolm Mackerras AO

Snedden, Andrew

From: Malcolm Mackerras [redacted]
Sent: Thursday, 4 May 2017 4:19 PM
To: Snedden, Andrew
Subject: Submission
Attachments: Submission February 2017.doc

Dear Andrew

Thank you for your letter which I received last Tuesday, 2 May. I gave it a good study, including my reading of all the attachments to it. My first reaction to your suggestion (that I make a submission) was to think that I am so uncritical of the conduct of the 2016 ACT election and so uncritical of the ACT Electoral Act that I should give it a miss. However, I thought about it a bit more and decided to put my thoughts on paper. Consequently I have decided to send to you my recent submission to the federal Joint Standing Committee on Electoral Matters (JSCEM).

I am sure that you and the members of the Committee do not want to hear yet another rant from me about how appalling is the new Senate system. However, while I do not expect you to study that JSCEM document in full you may be interested in two parts of it.

The first part is page 2 where I give some information which might be of use to you regarding the ACT referendum held on 15 February 1992. It is headed "There must be NO 'Savings' Provisions in Commonwealth Law".

The second part which may interest you is the last substantive paragraph which reads as follows: "I find it strange that these days I seem so often to be on (roughly) the same page as the PRSA for, unlike them, I do not actually want more PR in Australia. What I want is that the PR systems we have to have (namely the seven systems we currently do have) be made as democratically respectable as possible. Of those seven PR systems I give a high distinction mark to Tasmania's Hare-Clark, a distinction mark to the ACT variant of Hare-Clark, a credit mark to the Victorian Legislative Council system and a pass mark to the NSW Legislative Council system. I fail the other three but even there I feel the need to give a mark. Consequently I give 45 per cent to the Western Australian Legislative Council system, 40 per cent to the South Australian Legislative Council system and 30 per cent to the Senate's current system. It seems downright peculiar to me that a body as powerful and prestigious as the Senate should be elected by the WORST electoral system in Australia."

Here I add a footnote. In the document I send to you today that paragraph is the second last and appears on page 21. However, it is the "redacted" edition which appears on the web page of the JSCEM. I call that submission my "expurgated" edition which went through several drafts before the JSCEM was willing to publish it. On their website the above paragraph appears on page 20 and is the VERY LAST paragraph. For those members who would like to read the "redacted" and "expurgated" edition it can be found at:

http://www.aph.gov.au/Parliamentary Business/Committees/Joint/Electoral Matters/2016Election/Submissions

I should mention also that PRSA stands for Proportional Representation Society of Australia while PR stands, of course, for proportional representation.

Members of the Committee may be interested to know just why I give the Tasmanian Hare-Clark system a high distinction mark and the ACT version "only" a distinction. It is possible also that members of the Committee may be interested to know of my proposal for a very, very modest change to the ACT system which would move it very slightly in the Tasmanian direction.

Our ACT Hare-Clark electoral system is, of course, excellent. However, the Committee just may be interested to hear how its excellence may be slightly increased by the proposal I have in mind. If the Committee were to invite me to appear before it I could describe how an already excellent system could be made even more excellent.

I would be grateful if you would acknowledge receipt of this e-mail.

Yours sincerely

Malcolm Mackerras

SUBMISSION BY MALCOLM MACKERRAS TO THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

The outstanding characteristic of Australia's sixth Senate electoral system is its **DISHONESTY**. In the autumn of 2016 a majority of federal politicians irresponsibly legislated a new system which would deceive and confuse voters. From the point of view of a democrat like me this system is indefensible. Those are bold statements but I hope to demonstrate their truth below. Before I do, however, I should explain that this submission begins with an executive summary of my proposed Senate reform. There follows a statement of my principles and an explanation of my reasoning.

Executive Summary

The first need is to scrap **ALL FOUR CONTRIVANCES** of the sixth Senate electoral system. Details are given below. A short-hand description is this: GET RID of the ENTIRE APPARATUS of above-the-line voting. The sixth Senate electoral system is the present one which operated first at the 8th Senate general election on 2 July 2016.

The second need is to have a **DECENT** instruction at the top of the ballot paper. It should read: "State of Victoria: Election of 6 Senators: Number six boxes from 1 to 6 in the order of your choice. You may then show as many further preferences as you wish by writing numbers from 7 onwards in other boxes" (Victoria is taken as my example for something which would apply to every state.)

The third need is to have an **HONEST** statement about vote formality at the very bottom of the ballot paper. It should read, in bold letters: "Remember, your vote will not count unless you number at least 6 boxes"

Statement of Principles

First, senators should be directly chosen by the people. Only those senators chosen under section 15 of the Constitution should be exempt from this commandment.

Second, every elector has a right to know where his or her vote is going in a candidate-based electoral system as commanded by section 7 of the Australian Constitution.

Third, every elector has a right to be handed a ballot paper containing honest directions for how to vote.

Fourth, every such ballot paper should contain an accurate and truthful statement in regard to the formality or informality of the vote.

In Appendix D the case is made that **EVERY ONE** of these principles is violated by the present system. I support my argument by describing Senate ballot papers in my possession.

The first advantage my reform would have over that described by the Commonwealth Electoral Amendment Act 2016 would affect the Australian Electoral Commission. Under the CEAA 2016 reform the politicians instructed the AEC to conduct a so-called "education"

campaign which, in my opinion, was quite dishonest. Under my reform the AEC would be enabled to wage an HONEST education campaign. It would be permitted to explain the reasoning of the legislature which would, in any event, appear on the ballot paper. The explanation for that is there would no longer be any "savings" provisions which, in my view, are simply ways in which the politician deceives the voter.

There Must be NO "Savings" Provisions in Commonwealth Law

The federal electoral system must be entirely ridden of so-called "savings" provisions. Fortunately the 38th Parliament got rid of the last remnant of House of Representatives savings provisions when it eliminated the so-called "Langer" vote. The 45th Parliament should do the same for the Senate system.

Some people argue that savings provisions are justified because they save votes from becoming informal. That is sometimes true as is illustrated by the case of the ACT version of the Hare-Clark system, the circumstances of which are described below. Therefore, these propagandists argue, the politicians who do that are trying to help the voter. Such an argument cannot be mounted in defence of this outlandish Senate system. The politicians and their media cheer squad wanted to preserve the Senate system as a party machine appointment system where voters are told their duty is merely to distribute numbers of party machine appointments between parties on a PR formula. The problem those politicians had was always simple to describe: they wanted to have these words on the ballot paper they designed: "Above the line: By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice)". Instead of producing a marginal increase in the informal vote (something that did occur) they would have produced a massive increase in the informal vote which would have been an embarrassment to them. They avoided that humiliation by their savings provisions.

All of this illustrates my main contention. To help the voter was not part of the intention of the CEAA 2016. Its intention was purely to make life more convenient for the machines of the collaborating parties. The parties in question were the Liberal Party, The Greens and Senator Nick Xenophon. At the very end of the process The Nationals came on board when offered concessions to enable them to contest Senate elections in Western Australia. To put some lipstick on the pig the politicians DID insert some provisions to enable them to CLAIM that they were in the business of helping the voter. Their claiming never cut any ice with me.

On 15 February 1992 a solid majority of ACT electors, at a referendum, supported the installation of the Hare-Clark system for future elections for the Legislative Assembly. I supported the Hare-Clark campaign strongly when the alternative was a system of single member electorates. When I joined the Hare-Clark campaign I assumed the Assembly would, as nearly as practicable, copy Tasmanian Hare-Clark which I have long described as the original and the best electoral system in Australia. However, that was not to be. At the urging of the ACT branch of the PRSA the Assembly inserted savings provisions whereby a single first preference vote would count as a formal vote. I never supported that and I still do not support that. However, I do admit that the PRSA-ACT was well-meaning in its view which was supported by the New South Wales branch of the PRSA. Thus the great contrast between the Senate and ACT systems is indicated. For the former the savings provisions were inserted to get parliamentary support for the new system. It was a case of politicians

helping each other. For the latter the system had already been chosen by the people and the savings provisions were added when they were never mentioned during the referendum campaign. Consequently I tolerate the savings provisions of the ACT Hare-Clark system while condemning the savings provisions of the Senate system in the strongest possible terms. They are a disgrace.

History and Reasoning

When the history of the calendar year 2016 is fully written I have no doubt the Commonwealth Electoral Amendment Act, passed late in March at the tail end of the 44th Parliament, will be rated as the most significant federal enactment for Malcolm Turnbull's first year which he celebrated on 14 September. However, when Turnbull celebrated a full year as Prime Minister on that day few independent observers could think of a single achievement for him in the legislative field. Before the 45th House of Representatives general election on 2 July he had hoped so-called "Senate reform" would be rated as such an achievement – but it was not to be. His precious "reform" was a disaster, for him, for his collaborators in The Greens, and for the reputation generally of the Senate for which the 8th general election was also held on 2 July following the double dissolution on 9 May.

There are 14 houses of parliament in Australia at present and each employs an electoral system which differs greatly or slightly from each other. None is quite unique. In my opinion the Senate electoral system is the worst of the 14 cases, for reasons which I describe in this submission. From that statement, however, I do not want readers to think that I am inherently hostile to proportional representation. PR can be done well, as is illustrated by the virtues of Tasmania's Hare-Clark system, in successful operation there since 1909. So excellent is their system that I rate it as the best electoral system in Australia, with the ACT variant of Hare-Clark being, in my opinion, the second best.

Reform of the Senate electoral system is an urgent need – but it must be a DECENT reform, and the Turnbull - Joyce - Di Natale -Xenophon rig was NOT a decent reform. What that quartet of party politicians did was foist upon the Australian people a dishonest system when what was needed was a genuine new system much more like Hare-Clark.

Why do I rate the Senate system as the worst? There is a simple answer: it is the system with the greatest number of contrivances. At present there are four. The first is the thick black line which runs through the ballot paper. It is known to psephologists as the "Senate ballot dividing line". The second: they are the party boxes which lie above the line. The third is the deceitful instruction to voters who wish to vote above the line. The fourth is the misleading instruction to voters who wish to vote below the line. For more information on these four contrivances see my appendix titled ABBREVIATIONS AND GLOSSARY. Obviously all four contrivances should be scrapped – but I shall first need to describe the history of how we came to acquire the present four contrivances.

I can easily identify the day in my life when I began my present fascination with voting and electoral systems. It was 28 April 1951. On that day there took place Australia's 20th general election for the House of Representatives and third Senate general election, the previous two Senate general elections having occurred in March 1901 and September 1914. Outside the polling place at the Revesby Public School I handed out "how to vote Liberal" slips for the Liberal candidate for Banks, George Roffey, and the Liberal-Country Party Senate team.

At the time I was a schoolboy at Saint Aloysius College, Milson's Point. The following year I went to the Sydney Grammar School for secondary schooling. I would display my knowledge of matters political by telling my school mates that the Senate system had a name. It was called Hare-Clark.

During my years at the Sydney Grammar School I continued to believe that the Senate method was the Hare-Clark system. However, in my last year, 1956, I came to realise such was not the case. I had studied the Senate results in December 1955 and devised the reform I wanted to the Senate system - to make it like Hare-Clark. Victoria was the most interesting state at that election due to the fact that Frank McManus, by being elected, broke the two-party assumption of previous years. There had been 15 candidates for Victoria for the Senate in December 1955 and, in order to cast a formal vote, the elector was required to number the squares 1 to 15 in consecutive order. I devised my reform under which at the top of the ballot paper it would read this instruction: "Number the squares from 1 to 15 in the order of your choice". However, at the bottom of the ballot paper it would read the following, in bold letters: "Remember: your vote will not count unless you number at least 5 squares". To note the high informal Senate vote in 1955 see Appendix C.

I discovered much later in life that what I proposed as MY reform in 1956 was quite similar to what Dame Enid Lyons and other parliamentarians from the Liberal Party had proposed in 1948. She, of course, knew a lot about the subject, she being the widow of a man (Joseph Aloysius Lyons) who had successfully contested Tasmania's first Hare-Clark election in April 1909. He was then one of the six state members for Wilmot, a division later re-named Lyons. In the parliamentary debate in April 1948 Dame Enid was supported by other members of the Liberal Party in the form of Messers Archie Cameron, Joe Gullett and Thomas White. It could be said at the time that, on this and on virtually every other subject, the then-great Liberal Party of Australia stood on the moral high ground.

Over the 65 years since Dame Enid Lyons retired from politics in April 1951 the Tasmanian Parliament has made several changes to the Hare-Clark system. Each change has made the system better - more democratic. Over the same period the Commonwealth Parliament has made several changes to the Senate system, two of which were very significant. Both changes have made the Senate system worse – less democratic. These days it would be a schoolboy or journalistic howler to say that the Senate system has much in common with Hare-Clark. The former has transmogrified itself into the worst electoral system in Australia, the latter into the best. For my part I hate the Senate system but I love Hare-Clark. The Senate system I hate is the sixth method, which I call the "semi party list" system. In conversation I call it the "party machine appointment Senate voting system". For more information on the seven systems see ABBREVIATIONS AND GLOSSARY which comes at the end of this narrative.

When the Commonwealth Parliament enacted the fourth system in a (reasonably) considered manner in 1948 there was a worthy basic motive supporting the reform – to prevent the kind of imbalance arising in the 18th Parliament (1946-49) when the 36 senators were divided 33 Labor, two Liberals and one for the Country Party. When the Parliament, this time in a fully considered manner, enacted the fifth system in 1983 there was again a worthy motive – to make it much easier for electors to cast a formal vote for the Senate. I call the fifth method the "second single transferable vote system".

By contrast, when the Parliament early in 2016 enacted the sixth system in great haste with effect that Turnbull could get a quick double dissolution election there was no worthy motive – just the Liberals, Nationals, Greens and Senator Nick Xenophon seeking to rig the system in their own favour. The sixth system was tried at one Senate general election and failed. The votes of the Australian people comprehensively discredited the new system. It is now truly disreputable. If it is not ACTUALLY disreputable it should be. The politicians who put it together now have a simple choice. They can enact a decent system, acknowledging the discredit they have brought upon themselves and the Senate. Alternatively they can decide to do nothing, to leave it there without significant change and hope broadcasters will educate the public about the deceitful instructions to voters. I hope they do the former but expect them to do the latter. If they do the former they will establish a permanent system of good repute. If they do the latter they may buy even more trouble for themselves in the future than they have already bought for themselves in the past.

My Contribution to this Debate

In Appendix A the record is given of my opening statement to the JSCEM on Tuesday 1 March 2016. It gives a brief outline of my contribution to this debate and the origin of my interest in it. Perhaps it is because of my excessive interest in matters of electoral reform but I cannot help but note the decline of that once-great party, the Liberal Party. In 1948 it stood on the moral high ground but by 1983 it found itself in a different place. I elaborate on that below and in Appendix B and Appendix C. See my section "The Post-Menzies Liberal Party has been the Problem". In the meantime, however, I want to say something about two particular results at the two most recent Senate elections. The contrast in the way those two results have been described by the media is striking.

Senators Ricky Muir and Malcolm Roberts

At the September 2013 half-Senate election Ricky Muir of the Australian Motoring Enthusiast Party was elected to the sixth vacancy in Victoria, taking a seat from Liberal Senator Helen Kroger. Muir received 17,083 first preference votes but was able, through preferences, to build up his vote to the quota of 483,076 and, in consequence, was elected to the 6th vacancy. In May 2014 the Joint Standing Committee on Electoral Matters brought down its *Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices* which I denounced immediately upon its publication and have continued to denounce ever since. To me that Report was just Liberal Party propaganda which gained traction only because the Committee appeared to be multi-partisan. Yet it soon became clear that the Labor Party regretted lending its good name to that Report and The Nationals were very much opposed to it. Meanwhile The Greens and Senator Nick Xenophon continued to support that Report. The document is hereinafter referred to as "JSCEM May 2014".

The outstanding characteristic of that JSCEM report was its TOTAL RELIANCE on the odd case of Ricky Muir's election to build a false story about that entire September 2013 half-Senate election when 40 senators were declared elected. Not a single other case was cited to support the Report's argument. Yet the media fell for it hook, line and sinker and peddled the proposition that the reforms so recommended had some basis to them in democratic principle. That was, in my opinion, never the case and it became entirely clear

to me that the parliamentary numbers were not present to give its major recommendation the wanted implementation. That the substance of it was eventually legislated was due to variations in its recommendations. They were, I insist, made to get the numbers.

For the record Muir served as a senator for Victoria from July 2014 until the dissolution of the 44th Parliament in May 2016. The public case for the Commonwealth Electoral Amendment Act 2016 was to prevent "gaming the system". I argue, however, that the Liberal Party wanted revenge on Muir for "stealing" the seat of Senator Helen Kroger. They achieved their revenge in Muir's defeat and his replacement by Jane Hume of the Liberal Party. Another senator, elected in 2010 in a (roughly) similar way, was also defeated. He was John Madigan who was replaced by Derryn Hinch. My friends in the Liberal Party sometimes object when I say these things. In point of fact, however, I do not blame them. Muir DID steal the seat from Kroger and I do not blame the Liberal Party for wanting to get that seat back. Muir had a six-year term and, unlike the Madigan case, his seat could not be retrieved at a 2016-17 half-Senate election.

At the July 2016 Senate general election Malcolm Roberts of Pauline Hanson's One Nation Party was elected to the 12th Queensland vacancy. Where Muir had polled 17,083 first preference votes Roberts polled 77, the lowest number of first preference votes ever to elect a member of the federal parliament. I did not notice any denunciation to the effect that a candidate winning just 77 votes was a denial of democracy. These characters thought that Muir's election with 17,083 votes was a denial of democracy but not, it seems, the election of Roberts with 77 votes.

So, how was Roberts elected? The quota was 209,475 and Pauline Hanson was elected to the third vacancy with 249,983 first preference votes. After the surpluses of George Brandis (Liberal), Murray Watt (Labor) and Hanson were distributed the vote for Roberts was 39,080, hardly surprising in the circumstances. How did he get enough extra votes to be elected? Regrettably I must take a circuitous route to explain how.

Since November 2006 the Victorian Legislative Council has been elected by a system modelled on the fifth Senate electoral system – except that it is NOT quite the same. The system was legislated by the Bracks Labor government and has now operated at the 2006, 2010 and 2014 elections. I confidently predict it will operate again in November 2018. Five members are elected for each Legislative Council region. The direction to voters who wish to vote above the line is the same as was the case for the Senate. The elector can choose the single voting ticket he or she wishes to adopt as his or her vote. To do that is the equivalent of a complete below-the-line vote, but one registered as a group voting ticket by the party chosen by the voter, just like the Senate system was in the years from 1984 to 2014.

The below-the-line instruction reads: "Or place the numbers 1 to at least 5 in these squares to indicate your choice." Unlike the old Senate system and unlike the new Senate system the elector is thus ENCOURAGED to vote below the line. It is that DISCOURAGEMENT of both Senate systems which makes both of them so outlandish. The most important point to note, however, is that the Victorian system is HONEST, unlike the new Senate system. Due to the reputation for honesty of the Victorian system voters understand the meaning of the words "1 to at least 5". The elector must number the squares 1, 2, 3, 4 and 5, otherwise the vote is informal. Electors understand that.

The opening words of my submission read this way: "The outstanding characteristic of Australia's sixth Senate electoral system is its dishonesty". Quite so – and the point is best illustrated by the way in which an irresponsible federal parliament copied the words from the Victorian Legislative Council ballot paper but twisted them to mean something quite different. The Senate ballot paper gives misleading instructions to voters and they are the third and fourth contrivances to which I referred when I wrote above that "the first need is to scrap ALL FOUR CONTRIVANCES of the sixth Senate electoral system."

As a consequence of the insertion of so-called "savings provisions" it was not a statement of the truth when the AEC ran advertisements stating that: "If you choose to vote above the line, you must number at least 6 boxes, from 1 to 6 for parties in the order of your choice". It was also a not a statement of the truth when the same AEC advertisements stated this: "If you choose to vote below the line, you must number at least 12 boxes, from 1 to 12, for individual candidates in the order of your choice". I kicked up a fuss about this and the result was that later AEC advertisements became slightly less deceitful. In that fuss I made it clear at all times that the AEC was not to blame. The entire blame, I averred, lay at the feet of the politicians who had legislated this system – and the seven High Court judges who approved it.

However, the damage was done. All manner of Australian voters BELIEVED (as the politicians wanted them to believe) that their vote would be informal if they did not follow the instructions on their ballot paper. That is why Malcolm Roberts was elected. Just as Ricky Muir stole a seat from Senator Helen Kroger so Roberts stole a seat from Senator Glenn Lazarus. The "beauty" of it, however, lay in the new system. It was perfectly designed to suit the interests of Pauline Hanson's One Nation Party. Yet she did not play any part in its design. She merely laughed all the way to polling places in Queensland, New South Wales and Western Australia, delighted that the Liberals, Nationals, Greens and Senator Xenophon had designed the new system for her benefit. Consequently when, on the night of 14 September 2016, she made her maiden speech in the Senate, the Liberals, Nationals and Xenophon paid her the respect due to her achievement. The Greens, by contrast, did not.

During the election campaign I did my best to educate the Australian people about this new system – but my influence is very limited. Broadcasters Ray Hadley and Alan Jones in Sydney and Tim Shaw in Canberra did the same. It should never have been left to me, to Hadley, Jones and Shaw and to a number of blogs to educate the Australian people. At gatherings to which I was invited I would make the point at all times that the misleading instructions to voters were never based on any democratic principle. They were not put there to help voters. Rather they were put there to enable the numbers to be gained in both houses to pass the legislation. They were the pay-off to get The Nationals to support the new system by giving The Nationals a new Senate seat in Western Australia. That The Nationals failed to win the WA Senate seat was not for want of trying. It meant simply that the Liberals, Nationals and Greens ended up with a substantial amount of egg on their faces. Of the collaborators in putting this system in place only Xenophon was rewarded. Yet the reward to him paled into insignificance compared to the reward for Hanson.

Lest anyone think that the comment I have just made has been prompted by my well-known hostility towards Senator Xenophon let me quote Graham Richardson in a recent

article in *The Australian.* It was titled "With two major brand failures, more air for Hanson". It was published on Friday 7 October 2016 and described why Hanson has benefited so greatly from the discrediting of the big parties. This paragraph is significant:

> The big success in Australian politics is Pauline Hanson. I disregard Nick Xenophon because his vote, impressive though it may be, is largely restricted to his home state of South Australia.

Let me quote from the speech by Senator Anne Ruston (Liberal, South Australia) in the Senate on the morning of Wednesday 31 August 2016. She had become a minister in the government and had this to say:

> I second the motion moved by Senator Jane Hume. In doing so, can I congratulate Senator Hume and all other senators who are taking their seat in this chamber for the first time. There can be no greater honour than to serve your country in this place. Can I also take this opportunity, Acting Deputy President Whish-Wilson, to acknowledge the large number and diverse range of crossbenchers that we have in the Senate and to note, with some degree of satisfaction, that it was the people of Australia who elected the Senate crossbench this time, entirely on the strength of their primary vote and not by some sort of backroom preference deal, as has been the case in the past. The crossbench is here because the people of Australia elected them, and I believe that this truly is a Senate of the people.

And so the myth is firmly established: the presence of Ricky Muir in the 44th Parliament rendered the then Senate to be "unrepresentative swill". However, now that Muir has been replaced by Hume the Liberal Party's revenge is achieved. Consequently, in the 45th Parliament it is "a Senate of the people" and the deals done by the Liberals, Nationals, Greens and Xenophon are dressed up to sound like the implementation of some "democratic principle", not yet defined. The kindest thing I can say about Senator Ruston is that she knows how to make a virtue out of necessity.

If there is some democratic principle to the effect that a senator should not be elected with a ridiculously low vote we should measure it by genuine first preference votes in what the Constitution commands to be a candidate-based electoral system. On that basis it is the WHOLE IDEA of above-the-line voting which creates the problem which has NOT been solved. All that has happened is that the big party machines have been allowed to cherry-pick between the three contrivances of the fifth system. They have kept the two contrivances of that system which suited their convenience and have scrapped the one contrivance which was inconvenient to them. In its place were added two new contrivances which were inaccurate statements and, therefore, misled voters.

Finally, for the record, here are the cases of senators elected with ridiculously low first preference votes since the above-the-line system was introduced. In 1984 Amanda Vanstone (Liberal, South Australia) was elected with 253 first preference votes. In 1987 Noel Crichton-Browne (Liberal, Western Australia) was elected with 155. In 2010 Glenn Sterle (Labor, WA) was elected with 156 and in 2016 Roberts was elected with 77. In 1993 Chris Ellison (Liberal, WA) was elected with 262 primary votes and Dominic Foreman (Labor, SA) was elected with 256.To complete the tale of the present Senate as the most obvious chamber of "unrepresentative swill" the two Xenophon deputy senators, Stirling Griff and

Skye Kakoschke-Moore enjoyed the support of 103 and 129 votes, respectively. With that vote Griff gets a six-year term and Roberts and Kakoschke-Moore get terms of three years each.

Gaming the System

It is worthwhile to consider the three PR systems we have had, using the criterion of "gaming the system" as our test. The first STV applied at elections from 1949 to 1983, a period of 35 years. There was then never any talk about gaming the system. However, it became discredited due to the fact of it greatly increasing the rate of informal voting. The second STV system applied at elections from 1984 to 2004, a period of 31 years. The elections of 1984, 1987, 1990, 1993, 1996, 1998 and 2001 passed without any such talk. The same was true of the 2007 half-Senate election. However, in 2004, 2010 and 2013 just ONE senator each time was accused of stealing a seat by gaming the system.

So what is the record of the present system? The answer to that question strongly supports my argument. We have seen, AT ITS VERY FIRST USE, a clear-cut case of gaming the system. I describe below how this system can properly be described as being OWNED by the Liberal Party. It is not surprising, therefore, that the Liberal Party was the first out of the blocks to game its own system. It came about in this way.

Senator Richard Colbeck made the political mistake of accepting the tourism portfolio in the Turnbull government. Some conservatives in his Tasmanian division, therefore, thought he should be punished. He was placed fifth by his party and a non-incumbent, Jonathon Duniam, was placed third. Under any decent system Colbeck would have had NO TROUBLE being re-elected. Under this outlandish above-the-line vote, however, Colbeck was defeated. Eleven other Tasmanian senators were re-elected. Senators Abetz, Urquhart, Whish-Wilson, Lambie, Parry, Polley, Brown, Bushby, Singh, Bilyk and McKim were all re-elected. Colbeck was defeated and Duniam was elected in his place.

When I give talks on this subject the way I describe it is to take the case of Family First which drew the left-hand position on the ballot paper. I assert this: had Family First voters KNOWN that a single first preference above the line was counted as a formal vote they may well have placed a single first preference vote above the line for that party and left it at that. Such a vote would have been counted as a first preference vote for Peter Madden and exhausted when he was excluded. However, what many did was place a 2 for the Liberal Party, not realising that their vote was defeating the only Tasmanian minister in the Coalition government. I cannot see how anyone can deny that the Liberal Party gamed its own system to defeat Colbeck and see him replaced by Duniam.

This case raises a political problem for people of my view. We know that this system is unfair because it treats CANDIDATES so unfairly. Yet The Greens have argued for this system since 2005 because it treats PARTIES fairly. I do not deny that. My argument is that the sole basis upon which it is argued to comply with section 7 of the Constitution is that it REALLY IS candidate-based. I deal with that in my next section.

Bob Day launches High Court challenge

It can be seen in Appendix A that I made an opening statement when I appeared before the JSCEM on 1 March 2016. The first paragraph included these words: "The Commonwealth Electoral Amendment Bill, as it now stands, is breathtaking in its contempt for the Australian Constitution. It is a bad bill. It should be withdrawn and re-drafted to bring it fully back to comply with the Constitution." The second paragraph then reads:

> All three contrivances introduced in 1984 must be scrapped. Any suggestion that the contrivances should be cherry-picked merely to suit the convenience of three big political parties, one big Independent senator, or the Australian Electoral Commission must be resisted. If any of the above is not implemented, it would be the duty of a senator to take the matter to the High Court, the day after the Governor-General signed assent. I am confident such would happen. If that challenge fails, I would be devastated. I would no longer be able to say that our senators are directly elected by the people.

I record here that for several months in late 2015 and early in 2016 I had lobbied crossbench senators to do that. I made some good friendships in the process but, in the end, only Senator Bob Day (Family First, South Australia) took up the challenge. For that I am very grateful and, in my opinion, all democrats should be grateful. I volunteered to help him as much as I could. The first Canberra hearing in the case took place on Friday 15 April and I had lunch with Bob at which we mapped out strategy. I then set about writing my affidavit of which I am very proud. It was dismissed by the Court as being "too argumentative" but I still sat in on the full hearing of the case on Monday 2 May and Tuesday 3 May. I set aside the morning of Friday 6 May to go to the High Court building expecting a judgment to be handed down which, hopefully, would effectively stop Malcolm Turnbull getting his double dissolution on Monday 9 May. Unfortunately it was not to be. The decision was handed down on Friday 13 May and it went against us.

On the morning of Monday 16 May I wrote an e-mail to Bob in which I stated: "I write to express my commiserations about the High Court case and my hope that you will be re-elected as a senator for South Australia. I shall do everything I can to promote your re-election." Later that day he wrote back with these words: "Thank you Malcolm for all your encouragement and support during the High Court challenge process. I do not regret taking this action."

I am the political expert on the Switzer programme on *SKY News Business* pay television where I have frequent public conversations with Peter Switzer. Apart from attacking the Senate voting system on television and in my articles on his website all I was able to do for Bob was write an article on him titled "Why I admire Bob the Builder" which was published on Monday 11 April 2016. Just how much electoral good the challenge did him cannot be calculated. It certainly did give him some good publicity. All we know is that he was re-elected to the Senate against most pundit predictions. As an act of wishful thinking I repeatedly predicted his re-election, and the rest is history. For me the entire set of election results was a beautiful set of numbers and none so beautiful as Day's success.

I write all this to record that I do not accept the High Court's judgment. Under this appalling system senators are NOT directly chosen by the people. Electors are encouraged by the ballot paper format to rank parties above the line and thus distribute numbers of party machine appointments between parties according to a proportional representation

formula. To say that Australian senators ARE directly chosen by the people is equivalent to saying that the President of the United States is directly elected. Both propositions are absurd because there is an intermediary between the votes of the people and the politicians being elected. In the American case the intermediary is the electoral college. In the Australian Senate case the intermediary is above-the-line voting.

At least the Americans used to BELIEVE they were directly electing their President. That now-shattered belief is illustrated by the fact that only four per cent of Americans in 2016 were handed ballot papers which even recorded the names of electors. Only the states of Arizona, Oklahoma, North Dakota and South Dakota showed those names. In Australia, by contrast, almost no one since 1984 seriously has believed senators are directly chosen by the people, even though electors are shown the names of those being elected on the ballot papers when they vote. The vast majority of voters know they are called upon to distribute numbers of party machine appointments in the way described above. For the above information about the United States I thank my academic friend Bob Darcy from the Oklahoma State University. The election of Donald Trump in 2016 with 2,865,000 fewer popular votes than Hillary Clinton has destroyed the belief which had existed.

Before I leave the law and return to psephology I invite readers to study the JSCEM document *Advisory report on the Commonwealth Electoral Amendment Bill 2016* dated March 2016 at Canberra. On page 33 the question was asked: "Will the proposed reform be found to be unconstitutional?" In paragraph 3.71 this is stated:

> The Committee asked Mr Malcolm Mackerras whether the current system of above the line voting is unconstitutional. He agreed, noting that in his view, the system of party lists is not consistent with section 7 of the Constitution. Mr Mackerras said that in his view, all Australian Senate elections since 1984 have been unconstitutional.

Quite so! I never accepted the second STV system as being constitutional. Therefore it could not be permanent. However, I thought it should be defended while we waited for everyone to come to their senses and agree on a reform which would bring the Senate voting system back to the Constitution. My proposal in this submission does precisely that. It has impeccable historical credentials, having been embraced by federal politicians as different from each other as Dame Enid Lyons and Mr Gough Whitlam. Sir Harry Gibbs in his *McKenzie* judgement had a neat formula to constitutionalise the patently unconstitutional. He had to hand down a judgement on the eve of a poll which he would not cancel on a technicality like this. His judgement was handed down on 27 November 1984, five days before polling day which was 1 December. His formula was: "While the Constitution requires electors at a Senate election to vote for individual candidates, it does not forbid the use of a system which enables electors to vote for individual candidates by reference to a group or ticket."

I approved of that way for Gibbs to avoid cancelling an election on a technicality. However, I always saw it as a neat trick. I am sure Sir Harry would turn in his grave at the way those words have been used to justify CEAA 2016. That precedent should never have been used to establish permanently the idea of above the line voting for any purpose other than its 1983/84 purpose which was to bring about a very substantial reduction in the rate of

informal voting for the Senate. That purpose was highly successful and was worthy. Turnbull's purposes were neither worthy nor successful.

I would be very happy if this submission were seen as a ringing dissent from the High Court judgment *Day v Australian Electoral Officer for the State of South Australia: Madden v Australian Electoral Officer for the State of Tasmania (2016) HCA 20: S77/2016 and S109/2016.* That judgment was handed down on Friday 13 May 2016. In my first edition of this submission I made comments about barristers for the Commonwealth and High Court judges which were required to be eliminated due to their language not being seen to be parliamentary. I content myself now to say that this outlandish Senate system should best be seen as the way in which politicians manipulate voters by the handing to those voters of deceitful ballot papers.

Two Newspapers Agree – and Both are Wrong!

The quality newspapers most widely read in Sydney are *The Australian* and *The Sydney Morning Herald.* My Sydney friends think that to get a proper collection of political news and opinion one should read both. Since their editorial line so often differs much from each other my Sydney friends assume that if they agree on a contentious subject both must be right. Let me give an example of where they agreed post-election and both were wrong. I happen to agree with the broad opinion in both editorials but I must point out the way they repeat the propaganda line of their favourite party which is the Liberal Party for *The Australian* and The Greens for *The Sydney Morning Herald.*

The editorial which came first was that in *The Sydney Morning Herald.* It appeared on Wednesday 6 July and was titled "Turnbull and Shorten belittle Senate at their peril". It contains this opinion:

> Given the reformed Senate voting rules, you cannot argue this result was an aberration like last time when Ricky Muir and Dio Wang were elected thanks to preference whisperers. People not backroom deals determined this result.

The total nonsense of that opinion is revealed to anyone who cares to study my Table 1, Table 13 and Table 14. Backroom deals elected senators every bit as much in 2016 as in 2013. See also my description on page 15 above of the way in which backroom deals in the Tasmanian Liberal Party deprived Richard Colbeck of his position as a Tasmanian senator and Turnbull minister. It is incredible that the machine actually WANTED to defeat the only Tasmanian minister but that is what happened. I come back to the names Ricky Muir and Dio Wang below.

The editorial in *The Australian* came later. It appeared on Wednesday 24 August and was titled "One Senate, one budget deficit" to which the following words were added underneath "Crossbench senators must back Coalition's fiscal repair". As with the SMH I agree with the gist of the editorial, but ask readers to consider this statement:

> One benefit of the changes to the electoral system is there can be no talk of accidental senators; they were all elected on their merits and deserve respect for the policies or grievances they embody.

That is rubbish, of course, but it was predictable that such Liberal Party propaganda would be carried by *The Australian* just as we know *The Sydney Morning Herald* would carry the propaganda line of their favourite party, The Greens. Members of the Labor Party would react as I did with this thought: the way for the Liberals and Greens to get the approval of both these papers is to do a deal between each other.

I now speculate on the names chosen by the SMH editorial. They wanted to promote the usual media myth that the Senate in the 44th Parliament was choc-a-bloc full of cross-bench senators who got there with almost no votes by gaming the system. There had to be more than the one name to which the proposition might reasonably apply, that of the usual whipping boy, Muir. So they went through the names of all seven crossbench senators elected in 2013 and noticed that only three were defeated in 2016. The name of Glenn Lazarus was ruled out. He was too well known in Sydney as a famous footballer. His name could not be used because readers would see through the myth. So they settled on Dio Wang from far away Western Australia. There would not be any reader noticing the words of wisdom of the SMH who would object to his name being used. Or so they thought.

So let me tell the writer of those editorials how Wang was elected as a senator. At the September 2013 half-Senate election in Western Australia the total formal vote was 1,310,278 and the quota for election was 187,183. Palmer United Party candidate Wang received 65,190 first preference votes, or five per cent. He was elected on preferences but there was a bungled re-count and Wang was unelected. Then there was a re-election in April 2014 which every analyst (and the AEC, of course) treats as the real election. See my Table 13. At that election the total formal vote was 1,277,804 and the quota was 182,544. Wang received 156,352 first preference votes (12.2 per cent) and was easily elected to the 5th place out of six with a minimal distribution of preferences. His surplus votes were then distributed and they caused the election to the 6th place of Linda Reynolds from the Liberal Party. Consequently, no reputable analyst would agree with linking the names of Muir and Wang as the editorial of *The Sydney Morning Herald* did.

The truth is that the entire propaganda line of the Liberal Party in the 44th Parliament was a giant myth reflected in that infamous document known officially as *Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices* which I call here JSCEM May 2014. The TOTAL RELIANCE on the odd case of Ricky Muir's election was described above on my page 5. It is not surprising that *The Australian* continues to pump out Liberal Party propaganda for that is what it does all the time. To be fair to Fairfax media I have noticed in recent times some re-thinking going on among its senior writers. I wish the same were true of the senior writers at *The Australian* which is why I am currently trying to educate them.

<u>The Post-Menzies Liberal Party has been the Problem</u>

Readers will notice the heading I have suggested for this section of my submission. However, having given it some further thought, I really should have referred to "the Late-Menzies and Post-Menzies Liberal Party", as I now explain.

From October 1959 to December 1966 I was a research officer for the Federal Secretariat of the Liberal Party, as a result of which I had many conversations with senior officials of the party. It was they who moved me from Sydney to Canberra in April 1965. The main thing I

remember about those conversations is that I could never discuss any constitutional or electoral question other than in terms of the advantage (or otherwise) that any settlement of such question would give to the Liberal Party. For those of my readers who want to get a flavor of that assertion I suggest you read books by Ian Hancock and Graeme Starr. The 2000 book by Ian Hancock is titled *National and Permanent? The Federal Organisation of the Liberal Party of Australia 1944-1965.* My name is mentioned on pages 214 and 215. The 2012 book by Graeme Starr is titled *Carrick: Principles, Politics and Policy* and it has a four-page foreword by John Howard which begins with these words: "John Carrick was a conviction politician decades before that term entered Australia's political lexicon." Sir John Carrick was born on 4 September 1918 and is still alive, living at Concord, NSW.

When I began working for the Liberal Party it was expected that elections would always be simultaneous for the House of Representatives and half the Senate. I noticed the high informal votes for the Senate in the years 1955, 1958 and 1961. For details see my Table 4. I concluded that such high informal votes greatly disadvantaged Labor. That, I thought, explained how the Menzies government performed so remarkably well at the 1961 Senate election when it came so close to losing government in the House of Representatives. But Menzies threw the elections for the two houses out of kilter in 1963 so the Senate informal vote was not a problem at the separate elections for half the Senate in 1964, 1967 and 1970. The problem, however, became enormous following the double dissolution election of May 1974. The Whitlam government became converted to the solution proposed by the Liberal Party in 1948. See my Appendix C. However, the Whitlam government was so inept I could understand why the anti-Labor Senate of 1974-75 was reluctant to agree to any electoral reforms Whitlam wanted.

It was the election of the Hawke government in March 1983 which demonstrated the intransigence (originally "bloody mindedness") of the Liberal Party to the full. Hawke had a mandate for electoral reform and was able to implement those reforms which historians will record as perhaps the greatest since Federation. The Hawke government received significant co-operation from the National Party and from the Australian Democrats. However, its solution to the problem of Senate informal votes was not what it actually wanted. The intransigence (originally "bloody mindedness") of the Liberal Party meant Labor must deal with the Democrats. Thus was implemented the system I call the "second STV system" which operated at all Senate elections from 1984 until 2014. The system (which virtually everyone calls call the fifth system) was an unexpected success giving fair results and good government policy until the propaganda campaign to which I refer above brought it down in 2016. As a result we now have the system I call the "semi party list" system, otherwise known as the 6th which has so far operated in July 2016 only.

I have to say I am critical of (originally "condemn") the Liberal Party while exempting some of its leading federal politicians who are listed in Appendix B. Its attitude on every constitutional and electoral question has been shaped by cynicism, lack of principle, inconsistency and attention only to short-term electoral advantage. Its intransigence, (originally "bloody mindedness") however, has led its leading politicians to concoct in their own minds so-called "democratic principles" which would always help to justify its electoral interests. That propaganda tract I call JSCEM May 2014 is the perfect illustration of what I mean. The "principles" of 1983 which led to the unsatisfactory Senate solution of that year were jettisoned so that the Liberal Party could justify a new position which became the

basis for the deals between Turnbull, Joyce, Di Natale and Xenophon to which I have referred above and below.

I make it clear I am talking about the Liberal Party, not the Coalition. I exempt the National Party fully from my criticism, like those Liberals listed in Appendix B. In 1983 they had a very different attitude towards the Hawke government from the Liberals. As a consequence they copped much criticism from the Liberals over the next twenty years. Their co-operation with Labor was in respect to the eminently sensible decision of the federal parliament to increase its own size.

Come forward now to the time Howard is Prime Minister. From 1996 to 2002 he seemed willing enough to negotiate his legislative programme through the Senate without making too many concessions to influential senators whose votes he needed. However, he gave a speech on Sunday 8 June 2003 to the Liberal Party's National Convention in Adelaide. In that speech he promised an official paper which was published in October 2003 titled *Resolving deadlocks: A discussion paper on section 57 of the Australian Constitution* which I described at the time of its publication as "one of the most dishonest official papers ever written, a disreputable document in every respect". Pages 5 and 6 of that paper read:

> Today, there is a case for change. Two important legislative reforms have combined to alter the composition and function of the Senate fundamentally. First, the introduction of proportional representation in 1948, taking effect in 1949, has fostered the development of minor parties. This has been a valuable evolution in the representative character of the Australian Parliament. In addition to the introduction of proportional representation, there was an amendment in 1983 which increased the number of senators elected in each state from five to six at a half-Senate election. In practice, the election of an even number of senators at a half-Senate election, combined with proportional representation, has meant it is virtually impossible for a government to obtain a majority in the upper house, no matter how large its majority is in the lower house.

It may not be obvious to my reader what I am getting at so I shall need to explain. That Adelaide speech was, it should be noted, given to the LIBERAL PARTY only. There was no need for Howard to display any sensitivity towards the National Party so he let fly. He gave public vent to what Liberal politicians had been saying privately about the role of the National Party in agreeing to the increase in the parliament's size. Over twenty years everything that went wrong with the Coalition was the fault of the National Party for agreeing with Labor in 1983! That was the Liberal Party line. Howard went further. He painted a picture of the Liberal Party in 1983 as uniquely standing on the moral high ground. I knew otherwise. In 1983 the Liberal Party was NOT unique for standing on the moral high ground. Its uniqueness lay in its intransigence.(Originally "bloody mindedness")

For reasons which are obvious that report on section 57 of the Constitution lies in the rubbish bin of history. In 2004 the Coalition gained a majority in the Senate. It did that having received just 41.8 per cent of the Senate vote in 2001 and 45.1 per cent in 2004. So much for this rubbishy proposition that the Labor Party-National Party co-operation in 1983 made it "virtually impossible for a government to obtain a majority in the upper house."! From that point onwards the Liberal Party sensibly decided to shut up on the subject. The Nationals had been proved right.

However, there is a reason why I raise that piece of history. This horrible Senate voting system we now have is, I contend, almost wholly owned by the Liberal Party. It is true that the first two contrivances are, technically speaking, inherited from a Labor system introduced in 1983. My point is that it should never have been necessary for Labor to do that. Therefore, I contend, all four contrivances of the present system are owned by the Liberal Party. It is true that the 2016 reform could never have been implemented without the enthusiastic votes of The Greens and Xenophon. It is also true that it could not have been implemented without the grudging support of The Nationals. They received their pay-off in the form of the third and fourth contrivances. It can also be argued that CEAA 2016 could never have been given public justification without the support of some well-informed analysts. They gave it a veneer of respectability in the form of what is known as "third party validation". The underlying reality, however, is that the Liberal Party is the owner of this system. To the extent that ONE POLITICIAN can be said to own it that politician is Malcolm Turnbull.

Over the more than three years since the September 2013 election I have spent a significant amount of my time campaigning first against JSCEM May 2014 and then against CEAA 2016. Readers may be interested to learn some things I learnt. The first thing I discovered was that I had no trouble convincing The Nationals. They could see what I could see. Why should they give up their ability to contest Senate elections in Western Australia for a reform wanted by the Liberals for which there never was any justification in democratic principle? However, I also had very little trouble talking to Labor people.

My problem lay with the Liberal Party. I had no trouble talking to individual politicians but that was not enough. I tried to get myself as many audiences as they would give me and I succeeded in respect of two such large audiences. The first was with their Berowra Conference at which I addressed a gathering of about sixty delegates on the night of Monday 26 October 2015 at the RSL Club in Hornsby. The federal member, Philip Ruddock, was there as was the state member, Matt Kean, now a minister in the government of Gladys Berejiklian.

Back in the summer of 1997-98 I met Julian Leeser who was an elected delegate for New South Wales representing Australians for Constitutional Monarchy, an organisation of which I had been an original supporter and am now one of its twenty patrons. We had both been candidates for the election of delegates, he successfully, me unsuccessfully. Both the ACT delegates were elected from the ranks of the Australian Republican Movement. I was a researcher/volunteer staffer for ACM at the Constitutional Convention meeting at Old Parliament House, Canberra, from the 2nd to the 13th of February 1998. We have been friends ever since and in March 2015 he visited me at my Canberra office to ask a favour of me. I granted the favour but made a request. I told him I was seeking audiences of members of the Liberal Party to explain why the Liberal Party should not have a bar of JSCEM May 2014. That is how I came to talk to the Berowra conference as described above. Julian himself was not there since he was needed to sit on the panel of pre-selectors for the North Sydney by-election. However, there was a man there of about my age who talked to me in private conversation afterwards. He said to me: "Everything you say on this subject is right but you have a problem. You do not live in the real world."

The next invitation came about in a quite different way. It just happened that Tuesday 26 January 2016 was the 50th anniversary of the retirement of Sir Robert Menzies. Consequently, having been a Liberal Party staffer on 26 January 1966 and having talked to Menzies on the day of his retirement I was invited to speak at the annual Convention of the Young Liberals meeting at the Hotel Kurrajong, Canberra, on the morning of Sunday 24 January. I spoke to seventy young Liberals about Menzies briefly but then launched into exactly the same talk I had given at Hornsby just three months earlier. They were quite happy for me to do that but over lunch following my talk a young man well-known to me said to me: "Everything you say on this subject is right but you have a problem. You do not live in the real world."

At this point I need to make another personal explanation. My original submission was sent to the JSCEM on 14 October 2016. At a point in time about mid-November I received a telephone call from David Monk, Inquiry Secretary of the Committee, to the effect that we needed to discuss my changing the submission to eliminate some of its language deemed not to be parliamentary. Having discussed with him (on the morning of Thursday 24 November) the details of that need I have eliminated a net ten per cent of the original so this document can be published. I also undertook to eliminate certain names appearing in the original, one of which is the name of the young man who made the remark quoted in my immediate past paragraph. I also promised to send this to each of Tony Abbott, John Howard and Julian Leeser to enable each of them to object to my mention of the fact that I have had private conversations with each of them. The first reply came on Monday 28 November from Leeser who wrote: "I wonder if you might remove the word unexpectedly otherwise I am fine with what you write." I made the requested deletion and thanked him for his help.

Since the Liberal Party was, and continues to be, the main problem I decided to speak to the two living former prime ministers of that party. I spoke to John Howard twice, in December 2015 and in September 2016. I spoke to Tony Abbott once, on the afternoon of Tuesday 16 August 2016. All three conversations were friendly but I came away from Abbott feeling more encouraged than I did from my conversations with Howard.

In the first Howard conversation (which was at his Sydney office and pre-arranged) I told him my views on the Senate question but he said: "Your views are very logical, Malcolm, but logic is a poor guide compared with custom". We then reminisced about the Menzies government and he autographed my copies of his books *Lazarus Rising* and *The Menzies Era.* In the second conversation (in Canberra and not pre-arranged) I gave him my updated views since the CEAA and July elections had intervened. He again said: "Your views are very logical, Malcolm, but logic is a poor guide compared with custom." He gave me no reason to believe that the Liberal Party would be interested in hearing my views on this or any other subject. He also gave me no reason to believe that either of us would ever live to see the day when senators are directly chosen by the Australian people. Since he was born on 26 July 1939 and I was born on 26 August 1939 I do not think our deaths are likely to be far apart.

The Committee has told me that I cannot get this submission published on its website unless I receive written approval from the other party to that conversation. As seen above I have that approval from Julian Leeser. So what about Howard and Abbott? I begin with

Howard. His email to me of Tuesday 6 December begins with "Dear Malcolm" and continues:

> Ruth Gibson has shown me your emails concerning your submission to the Joint Standing Committee on Electoral Matters. We most certainly did discuss the Senate Voting system. As you rightly note the first such discussion occurred in my office. I do not recall all the details of the discussion and am therefore unable to dispute your recollection. I do, however, remember that I did not support all of the proposals that you outlined. I recall a second brief exchange. That was probably in Canberra, perhaps at the National Press Club.
>
> I have had a look at your draft submission. Not surprisingly I believe that your criticisms of the Liberal Party's stance in 1984 is unreasonable. Whilst it is true that the Coalition won control of the Senate in 2004, it is also the case that as the increase in the size of the Senate, in 1984, created the situation that an even number of Senators retired every three years, the likelihood of either the Coalition or the Labor Party winning a majority in its own right was further reduced.
>
> I hope you are well and that the Mackerras family has a merry Christmas.

Howard's email ends with the words "With kind regards" but I decided to respond as follows:

> Thank you. This is very helpful. I believe that, provided Tony Abbott is equally helpful, I shall be able to have this published on the website of the JSCEM.
>
> I do not ask you to comment on what I say now. However, let me say it none the less. You are quite correct when you say that you did not support all the views I outlined in 2015. You did, however, describe my views as "logical". The second exchange was in Canberra immediately after you gave an address to the National Press Club on Wednesday 7 September. The importance of that conversation lies not in the fact that you again described my views as "logical". It lies in the fact that I said to you, courtesy of John Maynard Keynes, "When the facts change I change my mind". I told you that the Commonwealth Electoral Amendment Act and Australia's 8th Senate general election had intervened between the two conversations. Consequently I was making a variation in my proposed reform – to bring it back to what I had always REALLY wanted. That is exactly what I have now done. I am proposing a reform which was advocated by the Liberal Party in 1948 but rejected by Labor in 1948. Exactly the same reform (in principle) was proposed by Labor in 1974, 1975 and 1983 but was rejected by the Liberal Party in those years. On those questions, but NOT on the merits of an increased size of the Parliament, the Country Party/Nationals joined with the Liberals.
>
> My position, therefore, is this. Provided the Committee recommends logically (which, being a pessimist, I very much doubt it will) then all of the Liberal members and the Labor members would support my recommendation, agreeing that each

party had behaved illogically in the past, Labor in 1948 and Liberal much later. I can, however, see reason why some others would not like my proposal. . . . . .

The truth is that I object vehemently to BOTH the 1984 and 2016 reforms. Both are patent violations of the constitutional commandment that senators be "directly chosen by the people of the State". Of the present 76 senators only Lisa Singh (Labor) was directly chosen by the people. She was elected to the 10th Tasmanian place because in Tasmania alone "dumped" senators can win in a candidate-based election. That tells us the Tasmanian Hare-Clark system deserves the high distinction mark I give that system. It does not tell us that the Senate system is decent in any way beyond being convenient to the machines of three big parties, Labor, Liberal and Greens. The difference between 1984 and 2016 is that the former had a worthy motive to it – something which the 2016 reform conspicuously lacks. The 1984 reform worked remarkably well for over thirty years. I refuse to believe that a system as dishonest as the present one can possibly last as long. I shall spare you the remainder of my standard lecture which I shall give to the Committee if they invite me to appear before it.

My email received a reply from Ruth Gibson with the subject being noted as "Email from Hon John Howard OM AC". It stated: "I've passed this on to Mr Howard." However, I need to explain the dots at the end of my third paragraph. Due to the rules of the Committee I have not included 71 words here. The rules of the Committee are that I may not refer to any private conversation without seeking the permission of the other party to that conversation. I do not intend to seek that permission from the two men I mention. Nevertheless I hope some day to write a history of this affair in a book which would refer to my four drafts. I call my first "Submission original and unexpurgated". The Committee declined to publish it for reasons stated on page 22 above. My second I call "Submission expurgated". It was sent to the Committee on 23 December 2016. The 71 words are included there.

To my regret I did not receive the same co-operation from Nari Clayton of Abbott's office. In her email to me of Wednesday 7 December she wrote "Mr Abbott has indicated that he would like to read your submission before it is published. He has just returned from a trip, so I will endeavor to have him read it tomorrow and get back to you then." Before going on holidays for Christmas I wrote to Ms Clayton once a week to remind her of those words. Having received no reply I decided to assume that I shall never receive a reply.

Since I want this submission published on the website as soon as possible I must, therefore, work out how to comply with the requests of the Committee. I gather that I may tell of my mood after my conversation with Abbott which I am allowed to say lasted for three quarters of an hour on the afternoon of Tuesday 16 August 2016. I understand I am allowed to state opinions of mine I gave to him. However, I understand that I am not allowed to include quotations from notes I made of opinions he expressed to me.

That being so I note that the first and second versions of my submission (which I keep in my system) contain details of that conversation which are not recorded here. I should make it clear that Abbott was not aware during the conversation that I would make notes of it immediately after we finished having that conversation.

The view has been expressed to me that I should delete Appendix B. I decline to do that. The view has also been expressed to me that I should publish Appendix B but omit Abbott's name since he refused to help me further. Let me explain why I cannot do that. Some day in the future an historian may wish to write a book comparing and contrasting the different views on the office of Prime Minister held by Abbott and Turnbull. That historian may well be interested to know that Malcolm Mackerras AO strongly preferred Turnbull to Abbott in the matter of climate change policy. However, in the area of his greatest expertise Mackerras was able to commend Abbott enough to insist on his inclusion in Appendix B.

Have I been Wasting my Time?

Over the past three years I have given much thought to this project. I have often wondered: have I been wasting my time? After talking to John Howard I certainly thought so. He is a better judge of politics than I am and he predicted to me that neither of us would live to see the day when senators are directly chosen by the Australian people. I can see his thinking. All the parties will be comfortable with the present situation and that is all that matters in the real world of Australian politics. Having dabbled so disastrously with electoral reform Malcolm Turnbull will not have a bar of re-visiting it. Once bitten, twice shy, they say. The vested interests are against me so why do I bother?

Labor people have been very friendly to me but do I really think they share my democratic values? Am I to suggest that the entitlement of the Shop Distributive and Allied Employees Association to its share of Labor's Senate places be put at risk by a reform which thinks that senators should be directly chosen by the people? And if the Shoppies are so entitled, why not the feminists or the left faction or the right faction? With the Coalition there has to be a guaranteed balance between Liberals and Nationals. Of course I am not suggesting that the parties should not be allowed to rank their lists as they have been allowed to do since 1940. I am not asking for Robson Rotation or for the banning of "how to vote" slips being handed out at polling places. However, the problem with my reform is that the party machines want to be able to DISCIPLINE their voters. That is achieved by the present system. Why change?

Over the past two months I have wondered aloud to various people just where Howard might have learnt those words he twice said to me: "Your views are very logical, Malcolm, but logic is a poor guide compared with custom." Eventually Geoffrey Goode of the PRSA came up with the answer in what he described as a passage in which Winston Churchill put on display his hostility to the whole idea of proportional representation. It is an excerpt from *The Second World War,* Volume 5, Chapter 9, "Closing the Ring". It reads as follows:

> Finally, on October 28 (1943) there was the rebuilding of the House of Commons to consider. One unlucky bomb had blown to fragments the chamber in which I had passed so much of my life. I was determined to have it rebuilt at the earliest moment that our struggle would allow. I had the power at this moment to shape things in a way that would last. Supported by my colleagues, mostly old parliamentarians, and with Mr Attlee's cordial aid, I sought to re-establish for what may well be a long period the two great principles on which the British House of Commons stands in its physical aspect. The first is that it must be oblong, and not semicircular, and the

second that it must only be big enough to give seats to about two-third of its members. As this argument has long surprised foreigners, I record it here.

There are two main characteristics of the House of Commons which will command the approval and the support of reflective and experienced members. The first is that its shape should be oblong and not semicircular. Here is a very potent factor in our political life. The semicircular assembly, which appeals to political theorists, enables every individual or every group to move round the centre, adopting various shades of pink according as the weather changes. I am a convinced supporter of the party system in preference to the group system. I have seen many earnest and ardent parliaments destroyed by the group system. The party system is much favoured by the oblong form of the chamber. It is easy for an individual to move through those insensible gradations from left to right, but the crossing of the floor is one which requires serious attention. I am well informed on this matter for I have accomplished that difficult process, not only once, but twice. Logic is a poor guide compared with custom. Logic, which has created in so many countries semicircular assemblies with buildings that give to every member not only a seat to sit in, but often a desk to write at, with a lid to bang, has proved fatal to parliamentary government as we know it here in its home and in the land of its birth.

The second characteristic of a chamber formed on the lines of the House of Commons is that it should *not* be big enough to contain all its members at once without overcrowding, and that there should be no question of every member having a separate seat reserved for him. The reason for this has long been a puzzle to uninstructed outsiders, and has frequently excited the curiosity and even the criticism of new members. Yet it is not so difficult to understand if you look at it from a practical point of view. If the House is big enough to contain all its members nine-tenths of its debates will be conducted in the depressing atmosphere of an almost empty or half-empty chamber. The essence of good House of Commons speaking is the conversational style, the facility for quick, informal interruptions and interchange. Harangues from a rostrum would be a bad substitute for the conversational style in which so much of our business is done. But the conversational style requires a small space, and there should be on great occasions a sense of crowd and urgency. There should be a sense of the importance of much that is said, and a sense that great matters are being decided, then and there, by the House. . .This anyhow was settled as I wished.

No doubt Howard would agree with all that as applied to the House of Commons. I STRONGLY agree with Churchill on that. I do not actually know whether Howard thinks that applies to my current argument. Suppose it does, what is my reply? Simple really. I can quite understand why the British first-past-the-post system always prevails over academics who think PR is more logical. However, first-past-the-post is very much a case of custom prevailing. It has history and tradition on its side and it also has its own logic – even if that logic is ridiculed by most psephologists these days. I cannot see, however, why my logic must yield to an illogical semi party list system in Australia which was cooked up yesterday by Mr Turnbull, Mr Joyce, Senator Di Natale and Senator Xenophon. It only came into being because it was supported by five alternative psephologists who should have known better.

I find it strange that these days I seem so often to be on (roughly) the same page as the PRSA for, unlike them, I do not actually want more PR in Australia. What I want is that the PR systems we have to have (namely the seven systems we currently do have) be made as democratically respectable as possible. Of those seven PR systems I give a high distinction mark to Tasmania's Hare-Clark, a distinction mark to the ACT variant of Hare-Clark, a credit mark to the Victorian Legislative Council system and a pass mark to the NSW Legislative Council system. I fail the other three but even there I feel the need to give a mark. Consequently I give 45 per cent to the Western Australian Legislative Council system, 40 per cent to the South Australian Legislative Council system and 30 per cent to the Senate's current system. It seems downright peculiar to me that a body as powerful and prestigious as the Senate should be elected by the **WORST** electoral system in Australia.

(This is now the fourth edition of my submission. As indicated above I had to weaken the first to produce the second. Then I had to weaken the second to produce the third. Then I had to weaken the third to produce the fourth. I hated having to do all that but I remain a man who always looks for the silver lining in every cloud. In this case the silver lining is my ability to write knowing what all the other submissions are saying.) This would be added if need be)

ABBREVIATIONS AND GLOSSARY

Words or acronym	Meaning

First Senate electoral system	The system I call "multi-seat plurality" (MSP) which applied at Senate elections from 1901 to 1917. The term "first-past-the-post", used by the High Court and others, is reasonable enough when one member per division was elected to the House of Representatives but must yield to MSP for Senate elections of the same period.
Second Senate electoral system	The system I call "preferential block majority/partial optional preferences" which in practice became a "winner take all" system. It applied at Senate elections from 1919 to 1931. Each elector was required to express preferences for twice the number of candidates to be elected plus one.
Third Senate electoral system	The system I call "preferential block majority/compulsory preferences". It applied at elections from 1934 to 1946.
Fourth Senate electoral system	The system I call the "first single transferable vote (STV)" method. It applied at elections from 1949 to 1983 and is often referred to as "proportional representation (PR)" system.
Fifth Senate electoral system	The system I call the "second single transferable vote (STV)" method. It introduced "above-the-line" voting and applied at elections from 1984 to 2014.
Sixth Senate electoral system	The present system. I call it "semi-party list". Voters are encourage to rank parties and are discouraged from voting for candidates. It applied at the 2016 Senate general election.
Seventh Senate electoral system	I strongly advocate this in my submission. It would genuinely be candidate-based and I would call it the "third single transferable vote" method.
Above-the-line	The party boxes which appear above the Senate ballot dividing line
AEC	Australian Electoral Commission
Ballot dividing line	The thick black line which runs through the Senate ballot paper
CEAA 2016	Commonwealth Electoral Amendment Act 2016

Contrivances	These are devices found on ballot papers which have **NO** democratic purpose but are there, typically, to "buy" parliamentary support for a reform. The first and second contrivances of the sixth system have been inherited from the fifth. The third and fourth contrivances were added in 2016 to enable the politicians to deceive the voters.
District magnitude	The number being elected.
General election	An election for the entire legislative body.
Group voting tickets	The system applying for Legislative Council elections in three states whereby the voter chooses to adopt a complete list of preferences lodged by a political party. Now discarded for the Senate.
Hare-Clark	A very democratic form of STV used for Tasmanian House of Assembly elections since 1909 and for ACT Legislative Assembly elections since 1995.
JSCEM May 2014	In May 2014 the Joint Standing Committee on Electoral Matters brought down its *Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices* which I denounced immediately upon its publication and have continued to denounce ever since.
PR	Proportional representation
PRSA	Proportional Representation Society of Australia
Party list	A system used mainly in continental European countries based on party votes. Variants include d'Hondt, Sainte-Lague, Imperiali and other types of PR counting.
Semi party list	The system used for the Senate and for the NSW legislative Council. Under such a system electors are encouraged to think the purpose of the election is to distribute numbers of party machine appointments between parties. Electors allowed to vote for candidates but are discouraged from voting below-the-line.
STV	Single transferable vote

STATISTICAL APPENDIX

Table 1: Least Squares Indexes for Australia, 1949 to 2016

Election	Parliament	House of Representatives	Senate
1949	19th	7.50	3.42
1951	20th	5.36	3.03 (3rd general)
1953	-	-	3.29
1954	21st	2.88	-
1955	22nd	6.84	6.52
1958	23rd	11.05	6.18
1961	24th	7.12	9.75
1963	25th	9.00	-
1964	-	-	2.06
1966	26th	10.83	-
1967	-	-	3.80
1969	27th	6.95	-
1970	-	-	3.16
1972	28th	6.90	-
1974	29th	5.96	3.72 (4th general)
1975	30th	14.05	3.08 (5th general)
1977	31st	15.02	7.30
1980	32nd	8.46	1.51
1983	33rd	10.41	3.37 (6th general)
1984	34th	7.82	5.35
1987	35th	10.41	2.60 (7th general)
1990	36th	12.49	4.39
1993	37th	8.06	3.33
1996	38th	11.24	4.54
1998	39th	11.85	7.34
2001	40th	9.81	8.47
2004	41st	9.07	8.69
2007	42nd	8.96	3.93
2010	43rd	7.81	4.12
2013/14	44th	10.06	4.47
2016	45th	9.70	3.66 (8th general)

Notes:
(1) The average for the 27 general elections for the House of Representatives is 9.10.
(2) The average for the 20 periodical elections for half the Senate is 5.08.
(3) The average for the six Senate general elections is 3.24.

Table 2: Informal voting at House of Representatives elections

Election	Total votes	Informal Votes	Per cent
First-past-the-post/voluntary voting			
1901	514,440	8,468	1.6
1903	739,401	18,463	2.5
1906	988,553	36,865	3.7
1910	1,349,626	27,044	2.0
1913	1,955,723	55,354	2.8
1914	1,726,906	40,143	2.3
1917	1,934,478	51,044	2.6
Preferential/voluntary voting			
1919	1,977,843	68,612	3.5
1922	1,646,863	74,349	4.5
Preferential/compulsory voting			
1925	2,987,200	70,562	2.4
1928	2,728,815	133,730	4.9
1929[a]	2,957,547	78,297	2.6
1931	3,286,474	114,440	3.5
1934	3,677,723	126,338	3.4
1937	3,699,269	95,928	2.6
1940	3,979,009	102,023	2.6
1943	4,245,369	122,878	2.9
1946	4,453,941	109,197	2.5
1949	4,697,800	93,390	2.0
1951	4,654,406	88,507	1.9
1954[a]	4,619,571	62,283	1.3
1955	4,525,774	130,239	2.9
1958	5,141,109	147,616	2.9
1961	5,384,350	138,317	2.6
1963[a]	5,575,977	101,264	1.8
1966[a]	5,892,327	182,578	3.1
1969[a]	6,273,611	159,493	2.5
1972[a]	6,747,244	146,194	2.2
1974	7,535,768	144,762	1.9
1975	7,881,873	149,295	1.9
1977	8,127,762	204,908	2.5
1980	8,513,992	208,435	2.4
1983	8,870,174	185,312	2.1
1984[b]	9,295,421	630,469	6.8
1987	9,715,428	480,342	4.9
1990	10,225,800	326,126	3.2
1993	10,900,861	324,082	3.0
1996	11,244,017	360,165	3.2
1998	11,545,201	436,136	3.8
2001	12,054,458	580,383	4.8
2004	12,354,983	639,851	5.2
2007	12,930,814	510,822	4.0
2010	13,131,667	729,304	5.6
2013	13,726,088	811,130	5.9
2016	14,262,016	720,915	5.1

a Separate House of Representatives election.

b Election for the House of Representatives first accompanying the system of above-the-line voting for the Senate.

Table 3: 45th General Election for the House of Representatives, 2 July 2016

Party	Number of Votes	% of Votes	% Change	Seats	Gain/Loss
Liberal	4,774,602	35.3	-3.5	60	-15
National (a)	919,003	6.8	n.c.	16	+1
Coalition Total	5,693,605	42.1	-3.5	76	-14
Labor	4,702,296	34.7	+1.3	69	+14
Greens	1,385,650	10.2	+1.5	1	No change
Nick Xenophon's Team	250,333	1.9	+1.9	1	+1
Katter's Australian Party	72,879	0.5	-0.5	1	No change
Others	1,436,338	10.6	-0.7(b)	2	-1
Total Formal	13,541,101	100.0		150	

Note (a) The Liberal and National totals began as 3,882,905 for Liberal Party, 1,153,736 for the Queensland Liberal National Party, 624,555 for The Nationals and 32,409 for the Northern Territory Country Liberal Party, a total of 5,693,605. The figure for The Nationals is derived by adding to their 624,555 the votes for those Queensland LNP members who joined the caucus of The Nationals in Canberra. That comes to 853,137. To that number is added votes for losing LNP/CLP candidates in Blair, Kennedy and Lingiari and the total is 919,003. I did a substantially similar exercise in 2013 which is why I can say the percentage vote for The Nationals is unchanged. My table for that can be found on page 19 of *Political Data Yearbook 2013* published by the European Journal of Political Research.

(b) This decline is more than entirely caused by the 5.5 per cent fall in the share of the Palmer United Party.

Table 4: Informal voting at Senate elections

Election	Total votes	Informal Votes	Per cent
Multi-seat plurality/36 senators			
1901	531,428	58,504	11.0
1903	887,312	32,061	3.6
1906	1,059,168	67,318	6.4
1910	1,403,976	64,603	4.6
1913	2,033,251	114,947	5.7
1914	2,042,336	86,649	4.2
1917	2,202,801	86,011	3.9
Preferential block majority/partial optional preferences/36 senators			
1919	2,032,937	175,114	8.6
1922	1,728,224	163,137	9.4
1925	3,014,953	209,951	7.0
1928	3,224,500	318,667	9.9
1931	3,468,303	332,980	9.6
Preferential block majority/compulsory preferences/36 senators			
1934	3,708,578	420,747	11.3
1937	3,921,337	416,707	10.6
1940	4,016,803	383,986	9.6
1943	4,301,655	418,485	9.7
1946	4,453,941	356,615	8.0
Single transferable vote/compulsory preferences/60 senators			
1949	4,697,800	505,275	10.8
1951	4,763,915	339,678	7.1
1953[a]	4,810,964	219,375	4.6
1955	4,914,094	473,069	9.6
1958	5,141,109	529,050	10.3
1961	5,384,350	572,087	10.6
1964[a]	5,556,980	387,930	7.0
1967[a]	5,889,129	359,241	6.1
1970[a]	6,213,763	584,930	9.4
1974	7,410,511	798,126	10.8
1975	7,881,873	717,160	9.1
1977	8,127,762	731,555	9.0
1980	8,513,992	821,628	9.7
1983	8,872,675	875,130	9.9
Single transferable vote/ticket preferences/76 senators			
1984	9,331,165	437,065	4.7
1987	9,766,572	394,891	4.0
1990	10,278,830	349,065	3.4
1993	10,954,258	279,453	2.6
1996	11,294,479	395,442	3.5
1998	11,587,365	375,462	3.2
2001	12,098,490	470,961	3.9
2004	12,420,019	466,370	3.8
2007	12,987,814	331,009	2.5
2010	13,217,393	495,160	3.7
2013	13,822,161	409,142	3.0
Semi party list/76 senators			
2016	14,406,706	567,806	3.9

a Separate Senate election.

Table 5: 8th General Election for the Senate, 2 July 2016

Party	Number of Votes	% of Votes	% Change	Seats	Gain/Loss
Liberal-National	4,868,246	35.2	-1.8	30	-3
Labor	4,123,084	29.8	+0.2	26	+1
Greens	1,197,657	8.6	-0.6	9	-1
Pauline Hanson's One Nation	593,013	4.3	+3.8	4	+4
Nick Xenophon's Team	456,369	3.3	+1.4	3	+2
Liberal Democrats	298,915	2.2	-1.6	1	No change
Derryn Hinch's Justice Party	266,607	1.9	+1.9	1	+1
Family First	191,112	1.4	+0.3	1	No change
Jacquie Lambie Network	69,074	0.5	+0.5	1	No change
Others	1,774,823	12.8(a)	-4.1(a)	None	-4
Total Formal	13,838,900	100.0		76	

Note (a) This decline is more than entirely caused by the 5.4 per cent fall in the share of the Palmer United Party.

Table 6: Fifth Senate Electoral System: Votes Cast "Above the Line" and "Below the Line"

Election	"Above the Line" Votes	%	"Below the Line" Votes	%	Total Formal
1984	7,583,583	85.3	1,310,517	14.7	8,894,100
1987	8,125,846	86.7	1,245,835	13.3	9,371,681
1990	9,077,731	91.4	852,034	8.6	9,929,765
1993	10,075,278	94.4	599,527	5.6	10,674,805
1996	10,283,560	94.4	615,477	5.6	10,899,037
1998	10,640,235	94.9	571,668	5.1	11,211,903
2001	11,074,008	95.2	553,521	4.8	11,627,529
2004	11,457,261	95.8	496,388	4.2	11,953,649
2007	12,249,344	96.8	407,461	3.2	12,656,805
2010	12,229,091	96.1	493,142	3.9	12,722,233
2013	12,941,989	96.5	471,030	3.5	13,413,019

Table 7: Sixth Senate Electoral System: Votes Cast "Above the Line" and "Below the Line"

Election	"Above the Line" Votes	%	"Below the Line" Votes	%	Total Formal
2016	12,934,792	93.5	904,108	6.5	13,838,900

Table 8: Formal Senate Votes Cast "Above the Line" and "Below the Line' by Jurisdiction, September 2013

Jurisdiction	Number of Candidates	"Above the Line"		"Below the Line"		Total Formal
		Votes	%	Votes	%	
New South Wales	110	4,284,102	97.9	92,041	2.1	4,376,143
Victoria	97	3,291,314	97.3	90,215	2.7	3,381,529
Queensland	82	2,540,933	97.0	78,528	3.0	2,619,461
Western Australia	62	1,260,147	96.2	50,131	3.8	1,310,278
South Australia	73	970,581	93.5	67,853	6.5	1,038,434
Tasmania	54	302,119	89.7	34,834	10.3	336,953
Australian Capital Territory	27	197,708	80.1	49,034	19.9	246,742
Northern Territory	24	95,085	91.9	8,394	8.1	103,479
Total Formal	529	12,941,989	96.5	471,030	3.5	13,413,019

Table 9: Formal Senate Votes Cast "Above the Line" and "Below the Line' by Jurisdiction, July 2016

Jurisdiction	Number of Candidates	"Above the Line"		"Below the Line"		Total Formal
		Votes	%	Votes	%	
New South Wales	151	4,249,550	94.6	242,647	5.4	4,492,197
Victoria	116	3,314,376	94.7	185,861	5.3	3,500,237
Queensland	122	2,555,956	93.9	167,210	6.1	2,723,166
Western Australia	79	1,290,839	94.5	75,343	5.5	1,366,182
South Australia	64	970,934	91.5	90,231	8.5	1,061,165
Tasmania	58	243,774	71.9	95,385	28.1	339,159
Australian Capital Territory	22	216,086	84.8	38,681	15.2	254,767
Northern Territory	19	93,277	91.4	8,750	8.6	102,027
Total Formal	631	12,934,792	93.5	904,108	6.5	13,838,900

Table 10: New South Wales: Senate STV and Legislative Council
Semi Party List Compared: ATL and BTL Votes

Senate

	October 2004		November 2007		August 2010		September 2013	
	Votes	%	Votes	%	Votes	%	Votes	%
"Above the Line"	3,880,482	97.6	4,116,995	98.2	4,059,558	97.8	4,284,102	97.9
"Below the Line"	94,083	2.4	76,239	1.8	92,966	2.2	92,041	2.1
Total Formal	3,974,565		4,193,234		4,152,524		4,376,143	

Legislative Council

	March 2003		March 2007		March 2011		March 2015	
	Votes	%	Votes	%	Votes	%	Votes	%
"Above the Line"	3,653,140	98.2	3,745,778	98.3	3,984,596	97.8	4,243,629	98.3
"Below the Line"	68,317	1.8	65,467	1.7	91,428	2.2	72,869	1.7
Total Formal	3,721,457		3,811,245		4,076,024		4,316,498	

Table 11: Victoria: Senate and Legislative Council Single Transferable Vote Systems Compared: ATL and BTL Votes

Senate

	November 2007		August 2010		September 2013	
	Votes	%	Votes	%	Votes	%
"Above the Line"	3,117,212	97.9	3,122,603	97.0	3,291,314	97.3
"Below the Line"	65,157	2.1	96,148	3.0	90,215	2.7
Total Formal	3,182,369		3,218,751		3,381,529	

Legislative Council

	November 2006		November 2010		November 2014	
	Votes	%	Votes	%	Votes	%
"Above the Line"	2,828,083	95.0	3,086,444	96.0	3,210,816	93.9
"Below the Line"	148,846	5.0	129,942	4.0	207,855	6.1
Total Formal	2,976,929		3,216,386		3,418,671	

Table 12: Half-Senate Election, 2010

Date of Election
21 August

Further Information

Seats filled:	40
Total enrolment:	14,086,869
Formal votes cast:	12,722,233 (96.3%)
Informal votes:	495,160 (3.7%)
Total votes:	13,217,393

Party	Votes		Change since 2007	Change since 2004	Seats		Over-under Representation
	Number	%			Number	%	
Liberal-National	4,914,205	38.6	-1.3	-6.5	18	45.0	+6.4
Labor	4,469,734	35.1	-5.2	+0.1	15	37.5	+2.4
Greens	1,667,315	13.1	+4.0	+5.4	6	15.0	+1.9
Democratic Labor Party	134,987	1.1	+0.2	+0.6	1	2.5	+1.4
Others	1,535,992	12.1	+2.3	+0.4	-	-	-12.1

Note: The above statistics come directly from the Australian Election Commission. They also come from page 274 of the *Parliamentary Handbook of the Commonwealth of Australia 2011* produced by the Parliamentary Library.

Table 13: Half-Senate Elections, 2013 and 2014

Dates of Election
7 September 2013 for the seven eastern jurisdictions
5 April 2014 for Western Australia

Further Information

Seats filled:	40
Total enrolment:	14,749,709
Formal votes cast:	13,380,545 (97.1%)
Informal votes:	403,380 (2.9%)
Total votes:	13,783,925

Party	Votes		Change since 2010	Change since 2007	Seats		Over-under Representation
	Number	%			Number	%	
Liberal-National	4,951,196	37.0	-1.6	-2.9	17	42.5	+5.5
Labor	3,965,284	29.6	-5.5	-10.7	12	30.0	+0.4
Greens	1,234,592	9.2	-3.9	+0.2	4	10.0	+0.8
Palmer United	751,121	5.6	+5.6	+5.6	3	7.5	+1.9
Liberal Democrats	502,180	3.8	+2.0	+3.7	1	2.5	-1.3
Nick Xenophon Group	258,376	1.9	+1.9	+0.7	1	2.5	+0.6
Family First	149,994	1.1	-1.0	-0.5	1	2.5	+1.4
Motoring Enthusiasts	66,807	0.5	+0.5	+0.5	1	2.5	+2.0
Others	1,500,995	11.3	+2.0	+3.4	-	-	-11.3

Note: The above statistics do not come directly from the AEC. Rather they are a re-working from pages 274 to 281 of the *Parliamentary Handbook of the Commonwealth of Australia 2014* produced by the Parliamentary Library. The pages are introduced by this note on page 274:

"The following section presents national, State and Territory results for the 2013-14 Senate elections. Note that the High Court, sitting as the Court of Disputed Returns, declared void the 7 September 2013 Senate result in Western Australia following the loss of 1,375 ballot papers. Subsequently a special half-Senate election was held in that state on 5 April 2014, the results of which are shown here."

Table 14: Senate General Election, 2016

Date of Election
2 July

Further Information

Seats filled:	76
Total enrolment:	15,676,659
Formal votes cast:	13,838,900 (96.1%)
Informal votes:	567,806 (3.9%)
Total votes:	14,406,706

Party	Votes		Change since	Seats		Over-under Representation
	Number	%	2013-14	Number	%	
Liberal-National	4,868,246	35.2	-1.8	30	39.5	+4.3
Labor	4,123,084	29.8	+0.2	26	34.2	+4.4
Greens	1,197,657	8.6	-0.6	9	11.8	+3.2
Pauline Hanson's One Nation	593,013	4.3	+3.8	4	5.3	+1.0
Nick Xenophon's Team	456,369	3.3	+1.4	3	4.0	+0.7
Liberal Democrats	298,915	2.2	-1.6	1	1.3	-0.9
Derryn Hinch's Justice Party	266,607	1.9	+1.9	1	1.3	-0.6
Family First	191,112	1.4	+0.3	1	1.3	-0.1
Jacquie Lambie Network	69,074	0.5	+0.5	1	1.3	+0.8
Others	1,774,823	12.8	-4.1	-	-	-12.8

Note: The above statistics come directly from the Australian Electoral Commission.

Table 15: State of Parties in Senate to 30 June, 2014

Party	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
Labor	5	5	5	4	4	6	1	1	31
Liberal	4	4	4	6	5	4	1	-	28
National	2	1	2	-	-	-	-	1	6
Greens	1	1	1	2	2	2	-	-	9
Xenophon	-	-	-	-	1	-	-	-	1
Democratic Labor	-	1	-	-	-	-	-	-	1
Total	12	12	12	12	12	12	2	2	76

Table 16: State of Parties in Senate from 1 July, 2014

Party	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
Labor	4	4	4	3	3	5	1	1	25
Liberal	4	3	4	6	5	4	1	-	27
National	2	1	2	-	-	-	-	1	6
Greens	1	2	1	2	2	2	-	-	10
Palmer United	-	-	1	1	-	1	-	-	3
Xenophon	-	-	-	-	1	-	-	-	1
Democratic Labor	-	1	-	-	-	-	-	-	1
Liberal Democrats	1	-	-	-	-	-	-	-	1
Family First	-	-	-	-	1	-	-	-	1
Motoring Enthusiasts	-	1	-	-	-	-	-	-	1
Total	12	12	12	12	12	12	2	2	76

Table 17: State of Parties in Senate from 2 July, 2016

Party	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
Labor	4	4	4	4	3	5	1	1	26
Liberal	3	4	3	5	4	4	1	-	24
National	2	1	2	-	-	-	-	1	6
Greens	1	2	1	2	1	2	-	-	9
One Nation Party	1	-	2	1	-	-	-	-	4
Nick Xenophon Team	-	-	-	-	3	-	-	-	3
Jacquie Lambie	-	-	-	-	-	1	-	-	1
Liberal Democrats	1	-	-	-	-	-	-	-	1
Family First	-	-	-	-	1	-	-	-	1
Derryn Hinch	-	1	-	-	-	-	-	-	1
Total	12	12	12	12	12	12	2	2	76

Table 18: Short-term Senators (a)

Party	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
Labor	1	2	2	2	1	3	1	1	13
Liberal	1	2	1	2	2	2	1	-	11
National	1	-	1	-	-	-	-	1	3
Greens	1	1	1	1	1	1	-	-	6
One Nation Party	1	-	1	1	-	-	-	-	3
Nick Xenophon Team	-	-	-	-	1	-	-	-	1
Liberal Democrats	1	-	-	-	-	-	-	-	1
Family First	-	-	-	-	1	-	-	-	1
Derryn Hinch	-	1	-	-	-	-	-	-	1
Total	6	6	6	6	6	6	2	2	40

(a) Senators for territories are always short term holders. Their terms are tied to that of the House of Representatives. For the states these senators are those expiring on 30 June 2019 and are described in the Senate resolution of Wednesday 31 August 2016 as follows: "Senators listed at positions 7 to 12 on the certificate of election of senators for each state shall be allocated to the first class and receive 3 years terms". The resolution was carried by 50 votes to 15.

Table 19: Senators with terms expiring 30 June, 2022 (b)

Party	NSW	VIC	QLD	WA	SA	TAS	Total
Labor	3	2	2	2	2	2	13
Liberal	2	2	2	3	2	2	13
National	1	1	1	-	-	-	3
Greens	-	1	-	1	-	1	3
Nick Xenophon Team	-	-	-	-	2	-	2
One Nation Party	-	-	1	-	-	-	1
Jacquie Lambie	-	-	-	-	-	1	1
Total	6	6	6	6	6	6	36

(b) The resolution provided: "Senators listed at positions 1 to 6 on the certificate of election of senators for each state shall be allocated to the second class and receive 6 year terms".

APPENDIX A

Opening Statement by Malcolm Mackerras to the Joint Standing Committee on Electoral Matters of the Commonwealth Parliament: Public Hearing, Tuesday 1 March 2016

Section 7 of the Australian Constitution commands that: "The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting as one electorate". Section 24 deals with the House of Representatives. Members there are also commanded to be "directly chosen by the people". These provisions mean that the electoral system for all our federal politicians must be candidate-based. The Commonwealth Electoral Amendment Bill, as it now stands, is breathtaking in its contempt for the Australian Constitution. It is a bad bill. It should be withdrawn and re-drafted to bring it fully back to comply with the Constitution.

All three contrivances introduced in 1984 must be scrapped. Any suggestion that the contrivances should be cherry-picked merely to suit the convenience of three big political parties, one big Independent senator, or the Australian Electoral Commission must be resisted. If any of the above is not implemented, it would be the duty of a senator to take the matter to the High Court, the day after the Governor-General signed assent. I am confident such would happen. If that challenge fails, I would be devastated. I would no longer be able to say that our senators are directly elected by the people.

Who would I blame? In the first place I would blame the arrogance of Dr Evatt and the Labor Party in 1948. In the second place, I would blame the bloody-mindedness of the Liberal Party in 1974, 1975 and 1983. In the third place, I would blame the filthy 2016 deal between the current Liberal Party, led by the unelected dud Prime Minister Malcolm Turnbull, and The Greens, a party noted for its moral vanity.

For the past two years I have been urging the Labor Party to withdraw from the effective big party conspiracy represented by the joint standing committee report of May 2014. I am pleased they have now done that. So: two cheers for Bill Shorten and his caucus. I wish I could say "three cheers for Labor" but I cannot.

To my friend Gary Gray: I thank him for giving me his "how to vote Labor in Brand" slip which I have tendered to the committee today. I regret his decision to spit the dummy in his speech last Wednesday. I have tendered to the committee a Tasmanian state ballot paper that shows what a half-Senate ballot paper would look like, in principle, under a decent reform. Such a Senate ballot paper would say on the top: "Number the boxes from 1 to (here insert the number of candidates) in the order of your choice". On the bottom of the ballot paper it would say: "Your vote will not count unless you number at least 6 boxes". I illustrate a "how to vote Labor" slip by showing on one side – in colour – the actual flyers handed out in the Division of Brand. On the other side I show what it might have looked like under a decent reform. If asked, I shall explain to the committee how I constructed the black-and-white side of the flyer.

In the program today I am shown as not having made a submission. However, I have chosen an alternative. Last Thursday I sent to the committee a 23-page document describing my writings since the 2013 election. On page 18 I quote from an article by Crispin Hull, a respected commentator at *The Canberra Times.* That article is so important to my case I have decided to give you a copy of the full article. I look forward to the inevitable High Court challenge with both fear and delight. My fear is that the Court will use the precedent of *McKenzie* to give the okay to a rotten piece of legislation. My delight is at the prospect of the Court striking down this enactment, and telling the grubby politicians how to enact a decent reform. Think of that! The politicians really would be able to sell the reform as legitimate in that circumstance: "We did this because the High Court told us to" would replace the current spin of: "A parliamentary committee unanimously told us to do this . . .and we waited two years before we decided to rush it through."

Note: the document was eventually recorded as Submission Number 106. There were a total of 107 submissions.

APPENDIX B

<u>Members of the House of Representatives from the Liberal Party exempted from my criticism of the Liberal Party generally</u>

Anthony John Abbott (Warringah, NSW, 1994 to date)
Archie Galbraith Cameron (Barker, SA, 1934-56)
Henry Baynton Somer Gullett (Henty, Victoria, 1946-55)
Dame Enid Muriel Lyons (Darwin, Tasmania, 1943-51)
Thomas Walter White (Balaclava, Victoria, 1929-51)

APPENDIX C

Speeches by Members of the Liberal Party in the House of Representatives debate on the Commonwealth Electoral Bill Thursday 29 April 1948 and Friday 30 April 1948

Mr Archie Cameron (Barker) at 11.45 pm - I move -

That, after clause 2, the following new clause be inserted: - "2a. Section one hundred and twenty-three of the Commonwealth Electoral Act 1918-1946, is amended by omitting from paragraph, (a) of sub-section (1.) the words 'all the remaining candidates' and inserting in their stead the words 'as many candidates as there are Senate vacancies to be filled.'"

No attempt is made in the bill to amend section 23 of the Commonwealth Electoral Act, which provides that every candidate must be voted for if a formal vote is to be made. With the system of proportional representation, under which, in the majority of the States, there will be candidates from three political parties and a number of independents as well, it seems utterly futile to propose seriously that an elector should be obliged to vote for every candidate on the list in order to record a formal vote. It is hard for electors to express their preference beyond three or four candidates and to compel a man to vote for 30 or 40 candidates - for the Lord knows how many aspirants for office there will be - is to go too far. My proposal would limit the number of candidates that would have to be voted for to the seven candidates to be elected. I am sure that if the Government consults the Electoral Office or any authority on proportional representation, it will be quickly convinced that that is a sufficient number of votes to ensure a proper poll. It will lessen the number of informal votes.

Mr White (Balaclava) at 11.50 pm. I support the amendment because it is common sense. It is unfair to expect the electors to put a number in every square on the ballot-papers. I speak advisedly, because I made an investigation in my electorate and found that 17 per cent of the votes were informal because the voters had not voted for all the candidates. To require electors to vote for, say, twenty candidates, will prolong the counting, and the next Senate election will be at hand before we shall know the result of the preceding one. In Tasmania, where the proportional system operates, there are long delays in the counting. Therefore, I heartily agree with the amendment.

At 11.54 pm the Attorney-General, Dr Evatt, gave a wholly unconvincing argument to support the then Labor view which was to keep the then existing ballot paper format. However, he had the numbers.

Dame Enid Lyons (Darwin) at 11.56 pm. I do not agree that the existing method is necessary to make a system of proportional representation effective. In Tasmania, for many years, the number of compulsory votes totalled only half that of the number of candidates to be elected, and although what are known as exhausted votes were not avoided absolutely, in general electors marked the whole of the ballot-paper. At least they indicated their choice in respect of all candidates of the particular party which they supported. The argument that the present system is essential for the satisfactory working of proportional representation is unsound. It is not in accordance with the opinion which other electoral experts have expressed from time to time. In a system under which the Government has already departed from mathematical accuracy, the argument advanced by the Attorney-General (Dr. Evatt) will not bear examination. The Government has cut away complete mathematical accuracy by the insertion of the "at random" provision, yet it maintains that the proposal made by the honorable member for Barker will nullify many votes. As one who has had a wide experience of the two methods of voting during the period I have exercised the franchise, I am convinced that the existing method will tend to increase the number of informal votes.

At 11.58 pm the Minister for Repatriation and member for Bass, Herbert Barnard, (the father of Lance Barnard) gave the Evatt

argument again, also thoroughly unconvincing but then again he, like Evatt, had the numbers. His speech took the debate past midnight

Early on the Friday morning the Country Party member for Richmond, Hubert Lawrence Anthony (the father of Doug Anthony) gave a rather longer speech supporting the arguments put by the Liberal Party.

Mr Gullett (Henty) at 12.06 am. I ask the Attorney-General to consider seriously the proposal contained in the suggested new clause. Our purpose should be to ensure that the maximum number of formal votes are cast. At the last Senate election in Victoria, there were nine candidates, and in my electorate 12 per cent of the votes were informal. At the next Senate election anything from 20 to 25 candidates will be nominated by the political parties, and probably a large number of independents will nominate as well. If the elector is required to place all the candidates in the correct order it must result in an increase of the number of informal votes.

Given the hour of the day of these proceedings it is not surprising that there was no division. There was no point to such a call in a situation where Labor had substantial majorities in both houses. Consequently the proposed new clause was defeated on the voices, the bill was agreed to, reported without amendment and read a third time, all without a vote.

To see what happened to the predictions of these Liberal members I direct readers to a ballot paper I shall give to the Committee if I am asked to appear before it in person. It shows what the ballot paper might have looked like in 1949. It is an actual recent Hare-Clark ballot paper in the ACT when seven members were elected for Molonglo.

In 1949, when seven senators were elected in every state, there were 23 candidates in New South Wales and 21 in Victoria. For NSW the informal vote was 222,576 or an even 12 per cent of the vote. In Victoria the informal vote was 140,541 or 10.7 per cent of the vote. In 1955, when five senators were elected in every state, there were 14 candidates in New South Wales and 15 in Victoria. For NSW the

informal vote was 166,433 or 8.8 per cent. In Victoria the informal vote was 184,229 or 13.5 per cent.

In 1974, when ten senators were elected in every state, there were 73 candidates in New South Wales and 48 in Victoria. For NSW the informal vote was 332,818 or 12.3 per cent. In Victoria the informal vote was 230,474 or 11.1 per cent. Whereas my name was quite unknown in 1949 and in 1955, by 1974 I had become generally known as "Australia's leading psephologist". I had long since accepted the Liberal Party's view of 1948 and Labor had also been converted to it. However, the Liberal Party itself did a cynical U-turn and in 1974 accepted the Evatt-Barnard view of 1948. It knew perfectly well the electoral benefit conferred upon it by the high informal vote – and was determined to keep it that way.

I have always believed that the benign influence of Dame Enid Lyons (with her intimate knowledge of Hare-Clark) drove her party's view in 1948. She retired from the House of Representatives in April 1951 and died in September 1981 without ever seeing either of the two amendments she sought in 1948 implemented. One of them (see her reference to "mathematical accuracy" above) was implemented by Labor in 1983. The other remains unheeded. It would be nice if the forty-year anniversary of her death were to see that done also. That will/would occur in September 2021.

On page 3 of my submission I record that my interest in these matters began in April 1951, the month when Dame Enid Lyons retired, and I also record the Senate elections in Victoria. Let me now give a complete list of the first four PR elections in Victoria. In 1949 the informal vote of 140,541 was 10.7 per cent. In 1951 (when there were ten to be elected) the informal vote of 90,887 was 6.8 per cent. In 1953 (when there were five to be elected at a Senate-only poll) the informal vote of 75,159 was 5.6 per cent. In 1955 (when there were five to be elected at a normal joint election of the two houses) the informal vote of 184,229 was 13.5 per cent. Clearly, therefore, the predictions made by Joe Gullett in 1948 were coming true – spectacularly. Is it any wonder that a young analyst like me would come to the same conclusion as that to which he had come in 1948? The remedy was obvious – cut the informal vote in the way proposed in 1948 by Liberals Cameron, Gullett, Lyons and White and by Country Party member Anthony.

APPENDIX D

Ballot Papers for General Elections 2 July 2016

On Tuesday 11 October I received in my letter box a "snail mail" parcel from Phil Diak, Director Media and External Communication at the AEC. These were sent at my request made two months earlier. The delay in meeting my request was that ballot papers cannot be given out while there is still a possibility of court challenge to any result. All the ballot papers I received were marked "sample" as is the normal practice of the AEC in such a circumstance. In my letter of request to the AEC was stated the reason for my request. I wanted the ballot papers for "educational purposes".

I now describe the ballot papers with intent to demonstrate the virtues and vices of each electoral system whereby the Parliament of the Commonwealth of Australia is elected. I begin with the House of Representatives.

The ballot paper for the Electoral Division of Gorton in Victoria reads in bold letters at the top: "Number the boxes from 1 to 3 in the order of your choice". Below that are found the names of the three candidates with their parties and the logos of their parties, Labor, Liberal and The Greens. At the very bottom it reads: "Remember. . .number every box to make your vote count"

The ballot paper for the Electoral Division of Canberra in the ACT reads in bold letters at the top: "Number the boxes from 1 to 4 in the order of your choice". Below that are found the names of the four candidates with their parties and the logos of their parties, Labor, The Greens, Bullet Train for Australia and Liberal. At the very bottom it reads: "Remember. . .number every box to make your vote count"

The ballot paper for the Electoral Division of Fenner in the ACT reads in bold letters at the top: "Number the boxes from 1 to 5 in the order of your choice". Below that are found the names of the five candidates with their parties and the logos of their parties, Labor, Independent (no logo for the independent candidate Andrew

Woodman), Liberal, The Greens and Bullet Train for Australia. At the very bottom it reads: "Remember. . .number every box to make your vote count"

Having examined these ballot papers I decided to set out a statement of principles equivalent to my Senate statement of principles which appears on the first page of my submission. Here they are:

First, every member of the House of Representatives should be directly chosen by the people.

Second, every elector has a right to know where his or her vote is going in a candidate-based electoral system as commanded by section 24 of the Australian Constitution.

Third, every elector has a right to be handed a ballot paper containing honest directions for how to vote.

Fourth, every such ballot paper should contain an accurate and truthful statement in regard to the formality or informality of the vote.

Having examined these ballot papers and combining that examination with my knowledge of Australian electoral history I conclude that Australia has a very good electoral system for the House of Representatives. That has been so since Federation. However, as Table 2 of my Statistical Appendix makes clear, the present fully preferential system began for general elections in 1919. I conclude that the present system totally meets my statement of principles. I am proud of my country that it should have such an excellent electoral system for its House of Representatives.

I turn now to the Senate. In one sense it is easier to describe but in another sense it is much more difficult to describe than is the case for the House of Representatives. The three ballot papers are for the Australian Capital Territory ("Election of 2 Senators"), for New South Wales and for Western Australia. For these last two their ballot papers have very near the top these words: "Election of 12 Senators".

Where these ballot papers are easy to describe is that the instructions are the same. For above-the-line voters the instruction is: "By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice)." For below-the-line voters the instruction is: "By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice)."

I know enough about these things to know that those instructions are dishonest. They have no basis in democratic principle. They have been deliberately copied from the Victorian Legislative Council ballot paper for below the line voting where the instruction to the voter is to "place the numbers 1 to at least 5 in these squares to indicate your choice." Victorians know what those words mean: They mean that your vote is informal unless you number the squares 1, 2, 3, 4, 5 in the order of your choice. The Victorian ballot paper is HONEST, the federal Senate one is not. Those instructions are not merely misleading. They are deceitful.

So, why does the federal parliament see fit to deceive voters where the Victorian parliament is honest? The explanation lies in the need to get the parliamentary numbers to have the reform enacted. The Nationals saw no reason why they should not use their power to insert that deceit for their own benefit. Who can blame them? The whole reform was driven by greed so why should they not extract a concession for themselves? Why should they help the Liberals, Greens and Xenophon in the promotion of THEIR interests but have the interests of The Nationals not acknowledged - pandering to the demands of their Coalition partner with not even a crumb for themselves?

Suppose I were a supporter of the Family First Party living in Western Australia. For the April 2014 separate half-Senate election I would have placed the number 1 above the line for FFP. That would have been counted as a first preference vote for Linda Rose, a second preference vote for Henry Heng and the remaining preferences between the candidates according to the Group Voting Ticket lodged by FFP. Suppose I were still a Family First supporter still living in WA and understanding how dishonest this system is I would again (in July 2016) place the number 1 above the line for FFP. Since the two FFP candidates were exactly the same that vote

would have been counted as it was in 2014 for the first two preferences. After that it would have exhausted.

Of course I do not live in Western Australia, I live in Canberra. I know how dishonest this system is so I vote with a determination not to be deceived. Due to the fact that I have always objected to the whole above-the-line system I voted again below the line in July 2016. I gave my first preference to the second Labor candidate, David Smith. My six preferences included at least one preference each for candidates from the Labor, Liberal, Animal Justice and Christian Democratic parties. I know my vote was formal. Since I have studied the returns I know that David Smith's first preference vote of 918 includes my own vote. Likewise I know that his final vote of 12,593 also includes my own vote. He was not excluded and not elected so my vote did not exhaust.

It would be interesting to know the full statistics on this question but the AEC has given us enough information that I can make an estimate. How many formal votes were cast against the instructions of the ballot paper? My estimate is that 12,455, 010 formal votes obeyed the instructions and that is 90 per cent. My estimate is that 1,383,890 formal votes were cast against the instructions of the ballot paper and that number included my own vote. Consequently I conclude that at least ten per cent of voters understood the dishonesty of the system. The total formal vote was 13,838,900. I refuse to listen to any defender of this system who attributes the so-called "savings" provisions to the generosity of its designers. They were put there for the reasons described in this submission.

I have looked again at my principles set out on the first page of my submission and I conclude that **NOT ONE** is fulfilled by this disgraceful system. Senators are not directly chosen by the people, the system is not candidate-based, the elector is not handed an honest ballot paper and the ballot paper given to the voter does not contain an accurate and truthful statement in regard to the formality and informality of each elector's vote.

I am ashamed of my country for the horrible electoral system for its Senate - foisted on the Australian people at the July Senate general election.