



**SUBMISSION TO THE PARLIAMENT OF AUSTRALIA'S  
JOINT STANDING COMMITTEE ON ELECTORAL MATTERS**

**INQUIRY INTO THE 2022 FEDERAL ELECTION**

7 OCTOBER 2022

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## INTRODUCTION

Ms Kate Thwaites MP  
Member for Jagajaga  
Chair of the Joint Standing Committee on Electoral Matters  
C/- Committee Secretary  
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Parliament House  
Canberra ACT 2600

[em@aph.gov.au](mailto:em@aph.gov.au)

Dear Ms Thwaites


I am pleased to present a submission to the Committee's inquiry into the 2022 federal election.

The deadline for submissions falls just a few weeks before the public release of the Real Republic Australia's discussion paper outlining our model for an Australian republic with a genuine directly elected Head of State.

I give permission for this submission to be released publicly.

I am willing to provide any further information requested by the Committee and to give evidence in person.

On behalf of the Real Republic Australia I wish you, your fellow Committee members, and participating MPs well in your deliberations.



**David Muir AM**  
Chair  
The Real Republic Australia

## **SUMMARY OF RECOMMENDATIONS**

The Real Republic Australia makes the following recommendations to the Committee in relation to its Terms of Reference:

### **(a) reforms to political donation laws, particularly the applicability of 'real-time' disclosure and a reduction of the disclosure threshold to a fixed \$1,000:**

- The Real Republic Australia agrees with proposals for “real-time” donation disclosure and supports retention of bans on donations by foreign entities.
- We recommend a \$200 threshold for the disclosure of donations to political candidates or federal election campaigns – not the \$1,000 threshold proposed in the Terms of Reference – to ensure we avoid the future possibility of one-third or more of donations not being captured by a legislated threshold.
- We urge the Committee to recommend or initiate further research and analysis in conjunction with the AEC and political parties to determine identifiable trends in the size of political donations and their sources.
- We support a fixed disclosure threshold with no annual indexation and which can be altered only by legislative amendment by the Federal Parliament.

### **(b) potential reforms to funding of elections, particularly regarding electoral expenditure caps and public funding of parties and candidates:**

- The Real Republic Australia recommends a spending cap apply to parties and candidates for election campaigns but does not offer a figure for such a cap and instead suggests the Committee undertake further hearings to settle on a workable spending limit.
- We suggest that the frequency of elections helps fuel rising campaign costs and recommend steps to address the problem including:
  - fixed four-year and synchronised terms for both the House of Representatives and Senate
  - the adoption of a Senate-style casual vacancy system for filling lower house seats to avoid by-elections
  - breaking the constitutional nexus linking the relative sizes of both houses
- We advocate for the end of the indexation of the per-vote refund of election expenses which we believe does not work to limit spending by parties and candidates and its replacement with a designated amount legislated by the Federal Parliament prior to an election.
- The Real Republic Australia suggests any consideration of full public funding of election campaign costs incurred by political parties or individual candidates should wait until the reforms it has outlined above are adopted and implemented.

### **(c) the potential for 'truth in political advertising' laws to enhance the integrity and transparency of the electoral system:**

- We support in principle truth in political advertising laws and suggest that the Committee in its final report recommends the pursuit of such laws by examining the experiences so far in South Australia and the ACT and that draft federal laws be framed which can then be the subject of public consultation.

### **(d) encouraging increased electoral participation and lifting enfranchisement of First Nations People:**

- We support the aim of encouraging greater participation in the electoral process by First Nations peoples.
- We further suggest that all Australians and our political system itself would benefit from having a better understanding of and a higher level of participation in our political system.
- We recommend that the Committee adopt the recommendations made in the previous Federal Parliament by:
  - the Senate Legal And Constitutional Affairs References Committee’s inquiry into Australia’s nationhood, national identity and democracy, and
  - the House of Representatives Standing Committee on Social Policy and Legal Affairs in its inquiry into constitutional reform and referendums.

## SUMMARY OF RECOMMENDATIONS (Continued)

### **(e) the potential for the creation of a single national electoral roll capable of being used for all federal, state and territory elections in Australia:**

- We support the idea of a single national electoral roll capable of being used for all federal, state, and territory elections.
- We further suggest that the Committee recommend a further inquiry to examine the feasibility of the sharing of resources such as IT systems among federal, state, and territory electoral agencies as a means to deliver cost savings for taxpayers.

### **(f) encouraging increased electoral participation and supporting enfranchisement generally, and specifically in relation to:**

**i. accessibility of enrolment and voting for persons with a disability;**

**ii. voting rights of Australians abroad;**

**iii. Australian permanent residents and new Australian citizens; and**

**iv. New Zealand citizens residing in Australia:**

- We believe that only people holding Australian citizenship should be eligible to vote in Australian elections.
- We believe the Australian Electoral Commission should always ensure that people with a disability can fulfil their right to vote by providing appropriate access at polling booths.
- We urge the Committee to recommend further examination of implementing secure online voting for Australian elections which would assist people with a disability and Australians overseas at the time of an election.

### **(g) proportional representation of the states and territories in the Parliament, in the context of the democratic principle of 'one vote, one value':**

- We believe the current allocation of seats across states and territories achieves "one vote, one value" as closely as possible.

## THE REAL REPUBLIC AUSTRALIA

The Real Republic Australia advocates for an Australian republic with a genuine directly elected Head of State.

Its origins go back to the February 1998 Constitutional Convention held in Canberra where delegates such as Brisbane's former Lord Mayor, Clem Jones AO; the former mayor of North Sydney and independent MP in both the NSW and Federal parliaments, Ted Mack; and former independent federal MP for the Victorian seat of Wills, Phil Cleary; and others all supported the concept of a directly elected Head of State.

Clem Jones led a team of Queensland delegates elected to the Convention including former Deputy Mayor of Townsville, Ann Bunnell, and Brisbane lawyer David Muir.

David Muir is currently chair of the Real Republic and chair of the Clem Jones Group.

The late Clem Jones (1918-2007) was Brisbane's longest serving Lord Mayor from 1961 to 1975 and is acknowledged as the driving force behind the city's development from what was often dismissed as a big country town to a modern, vibrant world-class city.

As Lord Mayor he respected the royal family and always warmly welcomed the late Queen Elizabeth II and members of her family whenever they visited Brisbane. *(pictured)*

Like senior members of the royal family, Clem knew that the republic debate was not about them but was about our nation and its future.

As a champion of average Australians, he was passionate about voters having the right to choose their Head of State through a direct election.

His estate, through the Clem Jones Group, continues to promote an Australian republic with a genuine directly elected Head of State.

The Real Republic Australia believes an Australian republic with an elected Head of State should be just one in a series of reforms to the Australian Constitution that would benefit all Australians.

Those other proposed reforms include:

- recognition of Aboriginal and Torres Strait Islanders in the Constitution,
- eliminating costly by-elections with a referendum question creating a Senate-style casual vacancy system for the House of Representatives,
- four-year, fixed, and synchronised terms for both houses of Federal Parliament to stop prime ministers gaming the system by picking election dates, cutting the number of elections now costing more than \$300 million, and ensuring government mandates are not hostage to Senators elected years earlier,
- breaking the constitutional nexus that demands the lower house is twice the size of the Senate – a reform that if not taken would one day see a lower house of 300 MPs and around 150 Senators,
- cutting the number of Senators for each state while retaining two apiece for the NT and ACT,
- constitutional recognition of local government, and
- instituting a fairer process for changing the Constitution and including voters in the NT and ACT in both parts of the “double majority” needed to secure passage of a referendum question.

The Real Republic Australia has released details of a “roadmap” for achieving beneficial constitutional reforms such as those listed above by establishing a series of Australian Constitutional Assemblies comprising average voters and an independent expert chair to assess proposed changes as a means to avoid the partisan politicking that has hampered reform efforts in the past.



## ABOUT OUR SUBMISSION

The Parliament approved the following Terms of Reference (TOR) to the Committee for the conduct of the inquiry into the May 2022 federal election:

*That the Committee inquire into and report on all aspects of the 2022 federal election and related matters, including consideration of:*

*(a) reforms to political donation laws, particularly the applicability of 'real-time' disclosure and a reduction of the disclosure threshold to a fixed \$1,000;*

*(b) potential reforms to funding of elections, particularly regarding electoral expenditure caps and public funding of parties and candidates;*

*(c) the potential for 'truth in political advertising' laws to enhance the integrity and transparency of the electoral system;*

*(d) encouraging increased electoral participation and lifting enfranchisement of First Nations People;*

*(e) the potential for the creation of a single national electoral roll capable of being used for all federal, state and territory elections in Australia;*

*(f) encouraging increased electoral participation and supporting enfranchisement generally, and specifically in relation to:*

*i. accessibility of enrolment and voting for persons with a disability;*

*ii. voting rights of Australians abroad;*

*iii. Australian permanent residents and new Australian citizens; and*

*iv. New Zealand citizens residing in Australia; and*

*(g) proportional representation of the states and territories in the Parliament, in the context of the democratic principle of 'one vote, one value'.*

Our submission is framed around specific comments on each of the inquiry's Terms of Reference.

The deadline for lodgement of this submission falls just a few weeks prior to the release of a discussion paper developed by the Real Republic Australia to stimulate debate on an Australian republic with a genuine directly elected Head of State.

Some of the issues raised in that discussion paper are relevant to the inquiry being conducted by the Committee and are mentioned in following sections.

## COMMENTS ON INDIVIDUAL TERMS OF REFERENCE:

### Term of reference (a): reforms to political donation laws, particularly the applicability of 'real-time' disclosure and a reduction of the disclosure threshold to a fixed \$1,000

The Real Republic Australia believes having an indexed donation disclosure threshold – currently \$15,200 – should be scrapped.

We believe the threshold is too high. We cannot detect any specific evidence for proposing a \$1,000 donation threshold and instead, recommend a \$200 threshold for reasons explained below.

#### **Better than nothing?**

Overall, we suggest that advancements in technology mean real-time disclosure should be achievable for every donation to a political party or candidate.

However we recognise that the application of a threshold is an accepted practice, but one which itself is in need of reform.

While the existence of a structured process for reporting and publicly releasing details of some political donations can, in principle, be viewed as a positive element – having some disclosure is better than none – the level and detail of disclosures remains a contentious issue.

A September 2020 [report by the Australian National Audit Office](#) (ANAO) validated some of those concerns by identifying numerous shortcomings in the oversight applied by the Australian Electoral Commission to the disclosure regime. In summary, the shortcomings included:

- the AEC's management of the financial disclosures required under the [Commonwealth Electoral Act 1918](#) was only "partially effective",
- the arrangements the AEC has in place to administer the financial disclosure scheme were "limited in their effectiveness" for a range of reasons listed in the report,
- the failure of the AEC to use available data sources "to identify entities that may have a disclosure obligation that have not submitted a return",
- insufficient evidence that disclosure returns were accurate and complete,
- limited analysis of returns,
- inadequate management of risks to the financial disclosure scheme, and
- the AEC did not appropriately act upon identified non-compliance and did not effectively use its enforcement powers.

Our submission does not seek to revisit the ANAO findings but cites them simply to make the point that while a threshold is important, the adequacy of how it is applied and monitored should also be a significant consideration.

However, that is a separate subject which touches upon the resourcing and role of the AEC which is outside the scope of the inquiry's TOR.

According to the ANAO report, the financial disclosure scheme was implemented in 1983 with the aim of increasing "overall transparency" and to "inform the public about the financial dealings of political parties, candidates, senate groups and others involved in the electoral process".

#### **Creeping upwards**

The ANAO report outlines how legislation in 2006 raised the \$1,500 threshold then in place since 1991 to a figure of \$10,000 to be indexed on 1 July each year in line with the consumer price index.

The Real Republic Australia believes the current disclosure threshold for political donations to federal political candidate and parties is fundamentally flawed because:

- the amended threshold effective from 2006 was set too high,
- the application of annual indexation has, obviously, allowed the threshold to creep upwards, and
- there appears to be little justification for settling upon a proposed change to a \$1,000 threshold.

The upward movement of the threshold is [illustrated on the AEC website](#) which shows the current threshold of \$15,200.

Our previously mentioned discussion paper for a directly elected Head of State in an Australian republic attempts to set new standards of transparency and accountability in provisions we propose for the conduct of elections for our Head of State. It outlines new provisions we have suggested to cover Head of State elections including the application of a donations threshold and other limits.

We note that the suggested \$1,000 donation disclosure threshold cited in the inquiry's TOR (a) mirrors one proposed by the [Accountability Round Table](#)\* (ART).

*\* DISCLOSURE: Chair of the Real Republic Australia, David Muir, is a member of the Accountability Round Table.*



The ART justified a lower level as part of a package of political integrity reforms outlined in [a recent commentary](#) by saying: “We are facing a national integrity crisis in which the routine abuse of power, the rejection of ethical standards and the undermining of integrity agencies is commonplace. This is leading to a self-perpetuating downward spiral in which unprincipled behaviour secures re-election and further reduces voter trust and hope.”

We agree with those sentiments and therefore agree with a lower disclosure threshold for political donations that is fixed with no annual indexation and which can be altered only by legislative amendment by the Federal Parliament.

We agree with “real-time” donation disclosure and support retention of bans on donations by foreign entities. However, rather than a \$1,000 threshold we propose a far lower threshold of \$200 in line with recommendations we make in our discussion paper on the threshold that should apply to donations made to any candidate seeking to be elected as Head of State.

The relevant provisions in our discussion paper state:

- that the donation disclosure level applicable to candidates in a Head of State election be \$200 and not the existing [\\$15,200](#) for federal political campaigns, and
- in addition to providing the AEC with a financial disclosure return following the election of a Head of State, candidates should also be required to disclose to the AEC donations above \$200 within 24 hours of being received,
- candidates should also be required to publicly disclose all donations above \$200 on their campaign website within 24 hours of the receipt of a donation.

### Smaller donations

We are motivated to recommend a lower declaration threshold by the trend evident in the United States of America where the proportion of small donors to candidates and parties in races for the White House and the US Congress has been rising over the past three presidential election cycles as candidates and parties reach more potential donors via social media and other online methods.

The [Open Secrets](#) public interest monitoring group noted: “It’s easier than ever to donate to a political campaign online, and candidates invested big money into reaching those donors.”

It has identified that donors of US\$200 or less accounted for almost 27% of contributions to federal candidates in the 2020 cycle – up from around 21% in 2016 and 19% in 2012.

Open Secrets found that currently the percentage of small donors [is much higher](#) for individual members of Congress or candidates in House of Representatives or Senate campaigns.

Because of the current high threshold for the declaration of donations to political parties there is a dearth of specific information about the size of donations.

But it is reasonable to assume that the same trend evident in the USA – a trend towards a growing proportion of small donors – is also occurring in Australia as a result of the wider use of direct internet-based and social media-focused fundraising.

When considering the US situation where smaller donations are approaching 30% of the total pool of donations, we urge a \$200 disclosure threshold otherwise in the not too distant future we may face a situation where almost one-third of the value of all donations is not captured by disclosure laws.

### SMALL DONORS BY ELECTION CYCLE



SOURCE: Open Secrets

A \$200 disclosure threshold could also work as a disincentive to aggregate donations as is now possible under a \$15,200 threshold and would still be possible under a \$1,000 threshold.

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#### RECOMMENDATIONS TOR (a):

- **The Real Republic Australia agrees with proposals for “real-time” donation disclosure and supports retention of bans on donations by foreign entities.**
  - **We recommend a \$200 threshold for the disclosure of donations to political candidates or federal election campaigns – not the \$1,000 threshold proposed in the Terms of Reference – to ensure we avoid the future possibility of one-third or more of donations not being captured by a legislated threshold.**
  - **We urge the Committee to recommend or initiate further research and analysis in conjunction with the AEC and political parties to determine identifiable trends in the size of political donations and their sources.**
  - **We support a fixed disclosure threshold with no annual indexation and which can be altered only by legislative amendment by the Federal Parliament.**
- 

#### Term of reference (b): potential reforms to funding of elections, particularly regarding electoral expenditure caps and public funding of parties and candidates

The cost of running in elections at any level of government continues to escalate for political parties and independent candidates.

As mentioned in the previous section, expensive elections mean parties and candidates must rely more and more on donations which, in turn, raises in the public mind questions of whether decisions by parties in office are or can be influenced.

The Real Republic Australia believes there is a direct link between the rising cost of election campaigns and the risk of corruption, either perceived or real corruption.

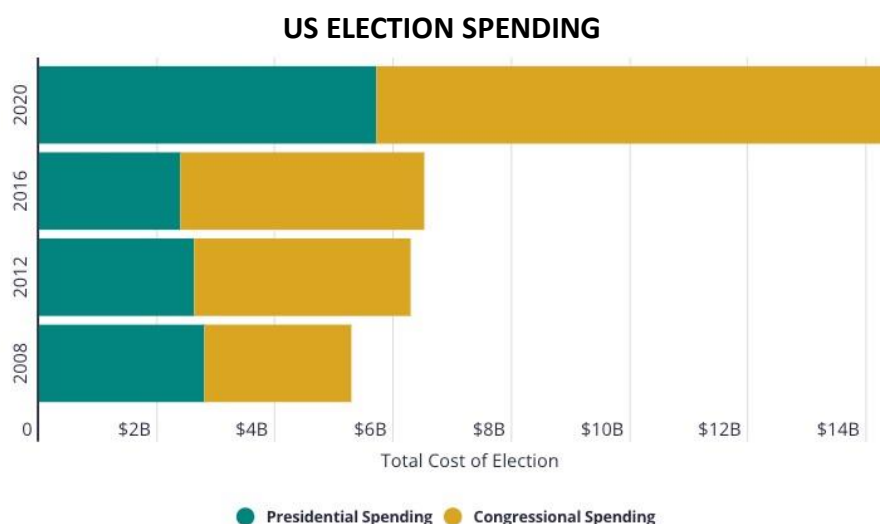
We therefore believe that rather than embracing only reforms to funding process, the Committee should consider other changes that would scale back what we now consider to be election activity, including reforms to reduce the number of elections in any given period.

Whether corruption is real or perceived, it has a negative impact on public confidence in our political processes, institutions, and those who participate in them.

If we do not take action, then our nation is destined to follow the path set by the USA where the costs incurred by candidates and political parties in running presidential and federal congressional election campaigns are now measured in billions of dollars.

#### The American experience

The [Open Secrets](#) public interest monitoring group says the 2020 US elections for the White House and Congressional seats in the US House of Representatives and Senate were [the most expensive ever, costing an estimated US\\$14.4 billion](#).



SOURCE: Open Secrets

It says that the campaign of then Democratic Party candidate for US President, Joe Biden, was the first in history to raise more than US\$1 billion. Then incumbent President Donald Trump’s unsuccessful campaign for re-election raised an estimated US\$774 million.

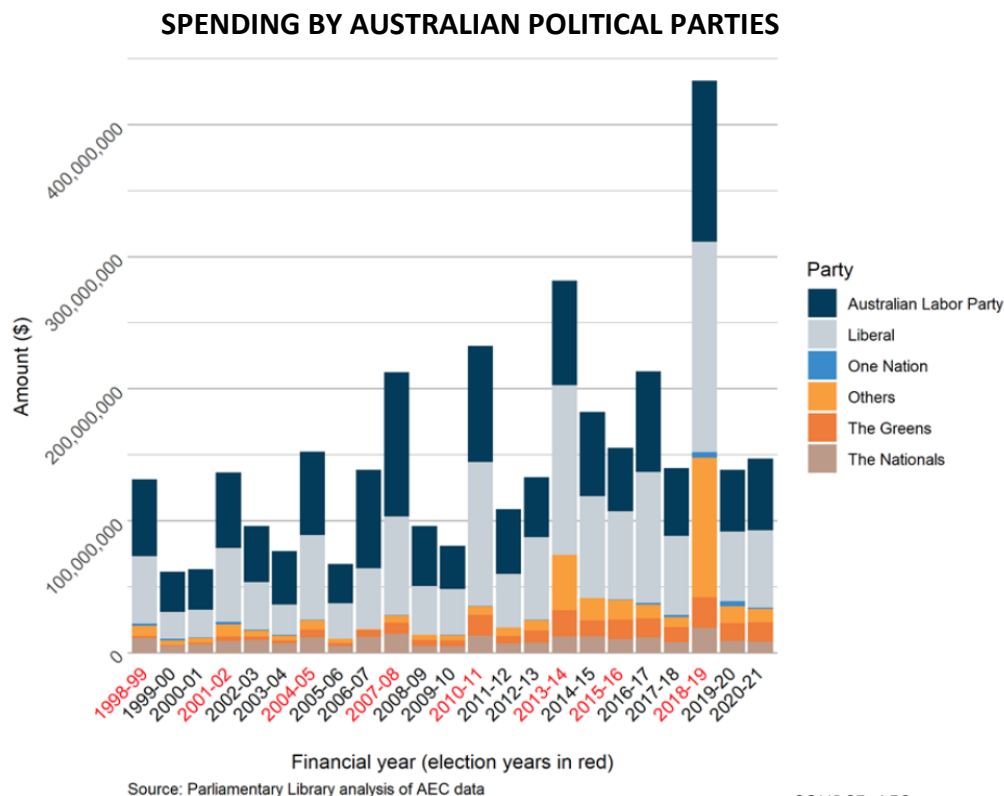
Open Secrets estimates that the US presidential election for 2020 saw all candidates, parties, and support committees or organisations spend a record US\$5.7 billion on presidential campaigns and US\$8.7 billion on Congressional races.

In Australian dollars at the time of writing this submission the US figures convert to presidential campaign spending of \$8.79 billion and Congressional campaign spending of \$13.41 billion for a total record spend of \$22.2 billion.

It should be noted that the USA, unlike Australia, has voluntary voting which forces candidates and parties to devote considerable time, energy, and money to encouraging people to attend a polling booth on election day and cast their vote. This is no doubt a factor in the high and escalating cost of US campaigns.

But regardless of that distinction we do see considerable growth in the cost of political campaigning in our federal elections.

Although existing reporting by political parties requiring them to lodge annual and election returns does not provide a full picture of their federal campaign fundraising and spending, [analysis by the Parliamentary Library](#) shows an upward trend in spending with obvious spikes in election years.



It is important to note that these costs cited earlier from the 2020 US elections were incurred by candidates and parties in their campaigning activities. They do not cover the cost of staging the elections incurred by US government agencies at federal, state, or local levels.

**The cost to taxpayers**

In Australia we can identify the cost to the public purse of the logistics of running federal elections by examining [the figures published by the Australian Electoral Commission](#) for the work it is required to undertake for federal elections and by-elections.

The AEC figures show that taxpayers incurred costs of close to \$372.5 million for running the 2019 federal election, the most recent poll for which figures are available.

The bulk of that was for covering logistics such as AEC staffing costs, voter information advertising, postal costs, freight costs, and polling booth costs.

But the total also included public funding paid to political parties for reimbursement of campaign costs under a public funding scheme started in 1984.

Under the scheme parties and candidates recording more than 4% of the primary vote can claim an automatic lump sum or an amount based on a designated monetary amount multiplied by the number of votes they received.

Since public funding was first introduced in time for the 1984 federal election [the indexed rate per vote](#) has naturally increased and for the 2019 election the rate was 275.6 cents per vote with an automatic payment figure of \$10,080.

At the 2022 election the rate was 291.4 cents with an automatic reimbursement figure of \$10,656 and indexation has since seen it break the \$3.00 level with a current rate of 301.6 cents per vote and an automatic payment of \$11,029.

The AEC publishes a [list of recipients](#) and provides a total figure covering payouts for the 2019 election totalling just under \$69.65 million – \$584,640 in automatic payments and more than \$69.06 million in per-vote claims accepted.

The Real Republic Australia believes the indexation applied to the per-vote reimbursement amount does not provide an incentive for reducing election campaign spending.

We therefore recommend an end to its indexation and its replacement by a legislated per-vote reimbursement amount approved by the Federal Parliament prior to any election.

### **Good intentions not achieved**

A December 2011 report by the then Joint Select Committee on Electoral Matters [stated](#) that the intention of the per-vote public funding scheme was “to contribute to creating a more ‘level playing field’ and to reduce the potential for both real and perceived undue influence and corruption”.

We believe this has not been the case. There is still a widespread public perception that those who donate to political parties can buy influence.

This belief, no matter how well or badly grounded, damages our democratic system by fostering a negative and cynical attitude towards political parties, politicians, and the concept of representative government itself.

We ask, if the intention of the public funding scheme has been achieved, why in recent years have many Australian jurisdictions legislated to identify a class of citizens, namely property developers, whose ability to make donations has been prohibited or curtailed?

### **Motivations for donations**

While history provides examples of efforts to corruption decision-making that can be used to justify such restrictions on property developers, we must also ask: Why curtail donations only from property developers?

Why not prohibit donations from other classes of individuals or commercial interests who may stand to gain from influencing decision-making or decision-makers?

We would submit that the expectation of donors for either favourable treatment, or at least having their concerns listened to, will exist no matter what donation thresholds or other rules are applied.

From the view of candidates and political parties, the high cost of running election campaigns is a motivating factor for them to continue accepting and encouraging donations.

It has been rare for party office holders to “line their own pockets” with donations, Rather they have seen them as a means to reduce financial pressure on their party as it faces regular and expensive election campaigns at various levels of government.

The more costly campaigns become to run, the more willing parties may be to accept donations and, perhaps, give commitments, however vague, of favourable treatment in return.

We suggest the issue should be tackled on other fronts including taking steps to reduce the cost and frequency of election campaigns. If the number and scale of election campaigns are reduced, the need for donations would follow.

### **Fixed and synchronised four-year terms**

To that end the Real Republic Australia has advocated constitutional reform to deliver fixed, four-year, and synchronised terms for both houses of our Federal Parliament.

That would mean the House of Representatives and the Senate would each have four-year terms and both would face voters on the same election day.

This would put an end to half-Senate elections and would also end the situation where a government formed in the lower house following an election can have its mandate held hostage by Senators elected several years earlier.

Shortening Senate terms to four years is not a dramatic step. Since 1975 when both mainland territories, the Northern Territory and the Australian Capital Territory, were allocated two Senators each, those Senators have been elected to serve a term reflecting that of the House of Representatives – a [maximum of three years](#).

Longer terms for governments would deliver cost savings to taxpayers by having fewer elections as well as better decision-making by governments and more certainty for the community especially business and investors.

In the past 30 years there have been 11 federal elections. With four-year fixed terms three elections would have been avoided.

As the AEC costed the 2019 election at close to \$400 million, with fixed four-years terms the savings in present day values over three decades would have been \$1.2 billion.

Fixed elections would also mean there would be no excuse for lengthy election campaigns as all participants, especially the Australian Electoral Commission, would be aware of the election date and could plan accordingly.

Under a system of fixed election dates a formal campaign period of a specific and appropriate number of weeks – even as short as a fortnight – could be legislated with designated activities prohibited outside the formal period.

Fewer elections and shorter campaigns would also mean less call on political parties and related entities to undertake fundraising, which currently can be a driving force for the corruption of decision-making or the perception of corruption.

Previous referendums – in 1974, 1977, and 1984 – seeking to synchronise elections for both houses of parliament all failed.

Also as mentioned above, the Committee's report on the 2019 election suggested introducing a maximum non-fixed four-year term for the House of Representatives and eight-year terms for the Senate which the Real Republic Australia – and, we believe, Australian voters – would not support.

In September 1988 the Hawke Government put four referendums to voters one of which sought approval to amend the Constitution to provide for maximum four-year terms for the House of Representatives and the Senate. The question did not propose fixed election dates. No state approved the question, which gained just under 40% approval nationwide.

In its [review](#) of the 2019 federal election the [Joint Standing Committee on Electoral Matters](#) of the previous parliament made a total of 27 [recommendations](#) including the need to consider four-year terms for the House of Representatives.

The Committee did not suggest fixing election dates and also said if the lower house adopted four-year terms the Senate should have eight-year terms.

As detailed above the Real Republic Australia supports fixed four-year terms but would not support eight-year terms for Senators.

We do not believe Australians as a whole would support eight-year terms either.

We are not aware of any concrete moves to address that recommendation, but we urge the current Committee to recommend fixed and synchronised four-year terms for both houses of Federal Parliament.

### **No by-elections**

Further, the Real Republic Australia has advocated that a Senate-style casual vacancy system be adopted for the House of Representatives to avoid costly by-elections.

A change to filling vacancies in lower house seats between elections would avoid the cost of by-elections, delivering more savings to parties, candidates, and to taxpayers who fund the AEC.

It would also protect and reinforce the value of the mandate invested by voters in governments at elections.

MPs who resign, die in office, or otherwise vacate their lower house seat and who represented a registered political party would be replaced by a person nominated by their party, which has happened since 1977 in the Senate without fuss or debate.

Administrative arrangements could be made to replace Independent MPs by having them lodge at the time of their election with the Speaker or Clerk of Parliament details of a suitably qualified successor for the balance of their term.

In addition, MPs who vacate their seat during a term in which they had chosen to leave the party for which they had been an endorsed candidate at the previous election would be replaced by a person nominated by that party.

No previous referendum question has sought to implement a system of casual vacancies for the House of Representatives.

However, a proposal by the Fraser Government put to voters in May 1977 formalised what had been the convention of having Senators of one party replaced by a member of that party when a vacancy occurred.

The move followed disquiet about political ploys in 1975 by the then Premier of NSW, Tom Lewis, and Queensland Premier, Joh Bjelke-Petersen, to replace Labor Senators in their states with independents with the aim of destabilising the Whitlam Government.

In February 1975 Lewis chose independent Mayor of Albury, Cleaver Bunton, to fill a Labor vacancy and in September Bjelke-Petersen also defied convention by filling a Labor vacancy with anti-Labor unionist Albert Field. Bunton retired and Field was defeated at the December 1975 federal election following the Whitlam Government's dismissal.

Voters at the 1977 referendum were asked to consider a proposal "to ensure, as far as practicable, that a casual vacancy in the Senate is filled by a person of the same political party as the Senator chosen by the people, and that the person shall hold the seat for the balance of the term". The question received majority support across all states with a national "yes" vote of 73.32%.

The previous [Joint Standing Committee on Electoral Matters](#) addressed the issue in its review of the 2019 election and [recommended](#) an examination of alternatives to by-elections for replacing lower house MPs.

We urge the current Committee to explore the issue.

### **Breaking the nexus**

The Real Republic Australia advocates a change by referendum to [Section 24 of the Constitution](#) which now requires the number of MPs in the House of Representatives to be "as nearly as practicable" twice the size of the Senate. In addition, we seek additional changes to the Constitution to reduce the number of Senators per state while retaining two Senators for the ACT and NT.

Both immediate and long-term cost savings would be delivered by these changes as well presenting the possibility for better representation for Australian communities.

The so-called nexus between the relative sizes of the upper and lower houses has seen the parliament increase Senate numbers in each of the six original states from six at Federation to 10 in 1948, then to 12 in 1983. The ACT and NT have each had two Senate seats since 1975.

That means total numbers in the upper house have risen from 36, to 60, then to 64 when the ACT and NT were allocated seats, and then to the current total of 76 Senators.

Unless the nexus is addressed, at some point in the future as the national population grows and the lower house expands we could see 100 or more Senators.

More Senators means higher election costs for parties, candidates, and the AEC.

We do not believe we need 12 Senators for each original state. Even returning to the original six Senators for each State with territories keeping their two — making 40 in all — would be appropriate and would save taxpayer funds. The number of places cut could be transferred to the House of Representatives to give better representation to local communities.

It should be noted that each of the 50 states in the USA has just two senators.

In May 1967 — the same day Australians were asked to vote at the referendum on federal powers to legislate for Indigenous communities — the Holt Government put to voters a referendum question seeking a change to the Constitution enabling the House of Representatives to be increased when necessary without a consequent increase in Senate numbers. The proposal gained only 40.2% national support and only NSW saw a majority of voters support it.

In its [review](#) of the 2019 federal election the former Joint Standing Committee on Electoral Matters [identified](#) the need to consider a referendum to break the nexus between the number of Senators and the number of Members of the House of Representatives.

We urge the current Committee to also advocate such a reform.

### **Election spending cap**

The Real Republic Australia believes the Australian public would support caps on election spending by candidates, parties, and interest groups.

We refrain from specifying the level at which such a cap should be imposed. Rather we suggest a further separate public inquiry be undertaken by the Committee to determine such a cap as well as to address other relevant issues.

As with the proposal in TOR (a) in relation to a donation threshold, we believe any campaign spending cap applied to candidates, parties, and interest groups should be applied initially as a fixed amount and is not indexed to CPI.

With the advent of fixed term parliaments, a non-indexed cap would accommodate the passage of legislation towards the end of a term to set the spending cap for the coming election.

### **Public funding of election campaigns**

While we already have funding of election campaigns via the per-vote reimbursement scheme, TOR (b) implies “full” public funding, ie: taxpayers meeting all costs incurred by parties and candidates.

We believe Australians would balk at such an initiative, especially when there are far more pressing calls on the public purse.

Charities and others in the not-for-profit sector, in particular those not in receipt of recurrent federal funding, would be just some who would rightly question the priorities of a government that undertook such a step.

There is nothing wrong in principle with parties and candidates receiving donations, provided the system is transparent and subject to appropriate regulation as we have mentioned earlier.

Therefore we do not support full public funding of election campaigns at the current time.

We recommend the adoption of the initiatives we have outlined above as priorities before consideration is given to full public funding.

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### **RECOMMENDATIONS – TOR (b):**

**The Real Republic Australia recommends a spending cap apply to parties and candidates for election campaigns but does not offer a figure for such a cap and instead suggests the Committee undertake further hearings to settle on a workable spending limit.**

**We suggest that the frequency of elections helps fuel rising campaign costs and recommend steps to address the problem including:**

- **fixed four-year and synchronised terms for both the House of Representatives and Senate**
- **the adoption of a Senate-style casual vacancy system for filling lower house seats to avoid by-elections**
- **breaking the constitutional nexus linking the relative sizes of both houses**

**We advocate for the end of the indexation of the per-vote refund of election expenses which we believe does not work to limit spending by parties and candidates and its replacement with a designated amount legislated by the Federal Parliament prior to an election.**

**The Real Republic Australia suggests any consideration of full public funding of election campaign costs incurred by political parties or individual candidates should wait until the reforms it has outlined above are adopted and implemented.**

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### **Term of reference (c): the potential for 'truth in political advertising' laws to enhance the integrity and transparency of the electoral system**

Calls for ensuring truth in political advertising generally arise at every election at every level of government.

We support such laws in principle but also acknowledge that the political arena will always be a place where debate can become vigorous, strident, and heated.

Election campaigns, where the reins of government may be at stake, amplify those characteristics evident in the competing claims presented to voters by parties and candidates.

These claims can be cast as the opinions of those making them. Parties and individuals are always entitled to hold opinions. But at the same time voters are right to have a reasonable expectation that such claims or opinions are anchored in fact.

Ensuring such an expectation is fulfilled can be achieved only by legislation and at present we believe only South Australia and the ACT have passed such laws so far.

SA introduced its laws in 1980s and they were used as a model for the ACT legislation in 2020.

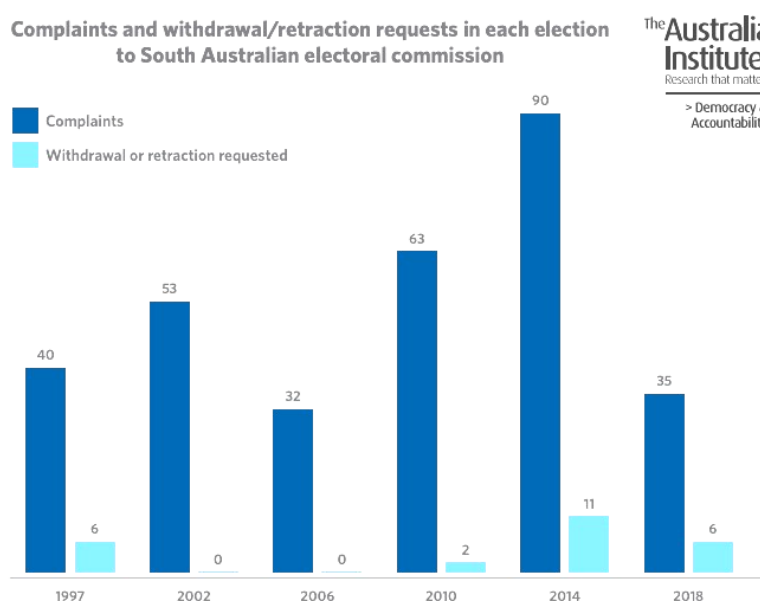
Section 113 of SA's [Electoral Act 1985](#) makes it an offence to authorise or publish electoral advertisements that are inaccurate and misleading.

The SA Electoral Commissioner can direct the withdrawal of any such advertisements and the publication of a retraction.

The Commissioner also has the power to apply to the SA Supreme Court to enforce such orders and penalties can apply (\$5,000 for individuals and \$25,000 for corporate entities) for non-compliance.

In addition Section 107 (5) of the SA Act enables the Court of Disputed Returns to declare void an election "on the ground of misleading advertising but only if the Court of Disputed Returns is satisfied, on the balance of probabilities, that the result of the election was affected by that advertising".

[Research published by the Australia Institute](#) shows the number of complaints under the SA provision far exceeds the number of cases in which action was taken to withdraw or retract material found to be misleading. (below)



Source: Renwick & Palese (2019) *Doing Democracy Better*.

Laws that govern publication of claims or opinions must be framed carefully to avoid being judged as infringing any implied right to freedom of expression in the Australian Constitution.

However, the Real Republic Australia suggests that truth in political advertising laws be pursued and that the Committee's report recommends the further exploration of the South Australian and the ACT experiences so far in the framing of draft legislation which should then be subject of public consultation.

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#### **RECOMMENDATIONS – TOR (c):**

**We support in principle truth in political advertising laws and suggest that the Committee in its final report recommends the pursuit of such laws by examining the experiences so far in South Australia and the ACT and that draft federal laws be framed which can then be the subject of public consultation.**

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#### **Term of reference (d): encouraging increased electoral participation and lifting enfranchisement of First Nations people**

The Real Republic Australia supports in principle any reasonable, workable, and affordable initiatives that would increase participation by all Australians in our electoral processes.

Participation by First Nations peoples may need improvement, but we submit that all Australians would benefit from having a better understanding of our system of parliamentary democracy and the role all of us as citizens and voters can play in it.



Two committee inquiries in the previous federal parliament have already identified initiatives that should be taken to help achieve that aim.

### **Nationhood, national identity, and democracy**

The [Senate Legal And Constitutional Affairs References Committee](#) conducted an [inquiry into Australia's nationhood, national identity and democracy](#) in 2019 and 2020 with [its report tabled in February 2021](#).

The committee [made 18 recommendations](#) for federal government action including:

- making the teaching of history and active citizenship compulsory in school years 9 and 10 and conducted by appropriately trained teachers, increasing the time dedicated to civics and citizenship education to at least 30 hours per year, redesigning the civics and citizenship module of the Australian National Curriculum to make it more engaging for students, and reviewing the new module five years after its implementation to assess its effectiveness,
- funding annual national excellence in teaching awards incorporating grants, scholarships and teaching placements, in Australian history and civics, and First Nations' history and civics,
- increasing the number of school children accessing trips to Australia's democratic and cultural institutions through the [Parliamentary and Civics Education Rebate](#) program,
- prioritising recommendations of the [Referendum Council](#) and the [Uluru Statement from the Heart](#).
- consulting with the [National Youth Commission](#) on ways to greater youth input into political processes of the federal parliament, and to promote democracy among Australia's youth.

We draw the Committee's attention to the [report](#) on the citizenship survey conducted in 2019 by the Australian Curriculum Reporting and Assessment Authority (ACARA) which showed young people's understanding of our system of government, the rights and legal obligations of citizens, and the social values that underpin Australian society [had plateaued](#) compared with the 2016 and 2013 surveys.

Every three years ACARA tests a representative sample of year 6 and year 10 students on their skills, knowledge and understanding of Australia's system of democracy and government.

The 2019 survey showed 38% of year 10 students tested reached what ACARA said was a proficient standard of understanding the importance of our democracy and appreciating our national values – a proportion similar to the 2016 outcome (38%), lower than 2013 (44%) and 2010 (49%), and on par with 2007 (42%) and 2004 (39%).

Year 6 students performed better, with 53% deemed to have reached or exceeded a proficient standard of knowledge – an outcome not significantly different from previous reports.

We believe, as evidenced by the ACARA survey mentioned above, that there is a need to engage and inform all young Australians and raise their level of skills and knowledge about our system of democracy and government.

This should be a task involving all three levels of government across our nation.

### **Constitutional reform and referendums**

The House of Representatives [Standing Committee on Social Policy and Legal Affairs](#) last year conducted an inquiry into constitutional reform and referendums and [presented its report](#) in December 2021.

Among its [10 recommendations](#) the Committee urged action by the incoming federal government to:

- expand the National Schools Constitutional Convention program to include more students every school year,
- commission a study through the Attorney-General's Department to assess Australians' awareness of the Constitution, referendums and constitutional matters with the results used to shape initiatives to increase public literacy about the Australian Constitution,
- implement a public awareness and education program on the Constitution and Australia's democratic system using online and social media resources with the goal of increasing the use of existing resources already available to the public through the [Australian Constitution Centre](#), the [Australian Electoral Commission](#), and the [Parliamentary Education Office](#),
- establish a new joint committee of both houses of the federal parliament – the Joint Standing Committee on Constitutional Matters – to review the Constitution and examine proposals for reforms including the staging of more regular constitutional conventions with public involvement,
- modernise the referendum process by making relevant changes to the *Referendum (Machinery Provisions) Act 1984* in line with other committee recommendations prior to any referendum on the question of constitutional recognition of Indigenous Australians.

The Real Republic Australia also believes that Australians of all ages would benefit from being better informed about our system of government because an understanding of our democratic processes and institutions is vital to a strong and well-functioning society. The January 2021 attempt at the US Capitol to overturn the lawful process of endorsing the November 2020 presidential election result was a lesson in the need for civics and citizenship education in any nation's education system.

Citizens feeling alienated from government, or who do not know how government works and how they can play a role in our democratic system may decide to simply opt out of participation. Or they may become open to being manipulated by self-interested individuals who peddle half-truths or full-blown lies or who promote responses that ultimately threaten our democracy.

If we are to progress as a nation – hopefully as a republic with a directly elected Head of State – Australians need to know how their government works and their own rights, obligations, and responsibilities.

We have suggested a system of Australian Constitutional Assemblies to assess reforms by involving a representative sample of voters, not a government-appointed convention.

Therefore we would welcome a new Joint Standing Committee on Constitutional Matters to be focused on constitutional review and reform and the updating of legislation covering referendums.

Given the work already undertaken by previous inquiries mentioned above in the previous Federal Parliament, we urge the Committee to recommend implementation of previously released recommendations by the two earlier Committees as starting points to address the need identified in TOR (d).

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#### **RECOMMENDATIONS – TOR (d):**

**We support the aim of encouraging greater participation in the electoral process by First Nations peoples.**

**We further suggest that all Australians and our political system itself would benefit from having a better understanding of and a higher level of participation in our political system.**

**We recommend that the Committee adopt the recommendations made in the previous Federal Parliament by:**

- **the Senate Legal And Constitutional Affairs References Committee's inquiry into Australia's nationhood, national identity and democracy, and**
- **the House of Representatives Standing Committee on Social Policy and Legal Affairs in its inquiry into constitutional reform and referendums.**

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#### **Term of reference (e): the potential for the creation of a single national electoral roll capable of being used for all federal, state and territory elections in Australia:**

As a federation of national, state, and territory governments individual jurisdictions within Australia have over time established their own agencies to oversee their electoral systems, compile and administer voter rolls, conduct elections or redistributions, and enforce electoral laws.

We believe that there are potential economies to be made that would benefit taxpayers by adopting a single national electoral roll.

A single roll would remove any inconsistencies among federal, state, and territory voter rolls.

We go further by suggesting that a single national roll should be a precursor to further sharing of resources such as IT systems with the ultimate aim of having a single system operated by the AEC for the administration of electoral systems in all jurisdictions that is funded proportionately and tasked individually by electoral agencies in each subscriber jurisdiction.

We believe the Committee should recommend exploration of such a system as it may offer considerable ongoing savings to taxpayers.

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#### **RECOMMENDATIONS – TOR (e):**

**We support the idea of a single national electoral roll capable of being used for all federal, state, and territory elections.**

**We further suggest that the Committee recommend a further inquiry to examine the feasibility of the sharing of resources such as IT systems among federal, state, and territory electoral agencies as a means to deliver cost savings for taxpayers.**

**Term of reference (f): encouraging increased electoral participation and supporting enfranchisement generally, and specifically in relation to:**

- (i) accessibility of enrolment and voting for persons with a disability;**
- (i) voting rights of Australians abroad;**
- (iii) Australian permanent residents and new Australian citizens; and**
- (iv) New Zealand citizens residing in Australia.**

We believe that only people holding Australian citizenship should have the right to vote in elections in Australia.

We believe the Australian Electoral Commission should always ensure that people with a disability can fulfil their right to vote by providing appropriate access at polling booths.

Furthermore, we suggest that the introduction of a secure online voting system should be explored for all Australian voters, but in particular it could assist those with a disability to more easily cast their votes.

Similarly, an online voting system would be of assistance to Australians overseas seeking to vote in an Australian election.

We urge the Committee to recommend further examination of online voting.

**RECOMMENDATIONS – TOR (f):**

**We believe that only people holding Australian citizenship should be eligible to vote in Australian elections.**

**We believe the Australian Electoral Commission should always ensure that people with a disability can fulfil their right to vote by providing appropriate access at polling booths.**

**We urge the Committee to recommend further examination of implementing secure online voting for Australian elections which would assist people with a disability and Australians overseas at the time of an election.**

**Term of reference (g): proportional representation of the states and territories in the parliament, in the context of the democratic principle of 'one vote, one value':**

The framers of the Australian Constitution agreed to provide for a minimum number of five seats in the House of Representatives of our federal parliament for the original states, being the former independent colonies.

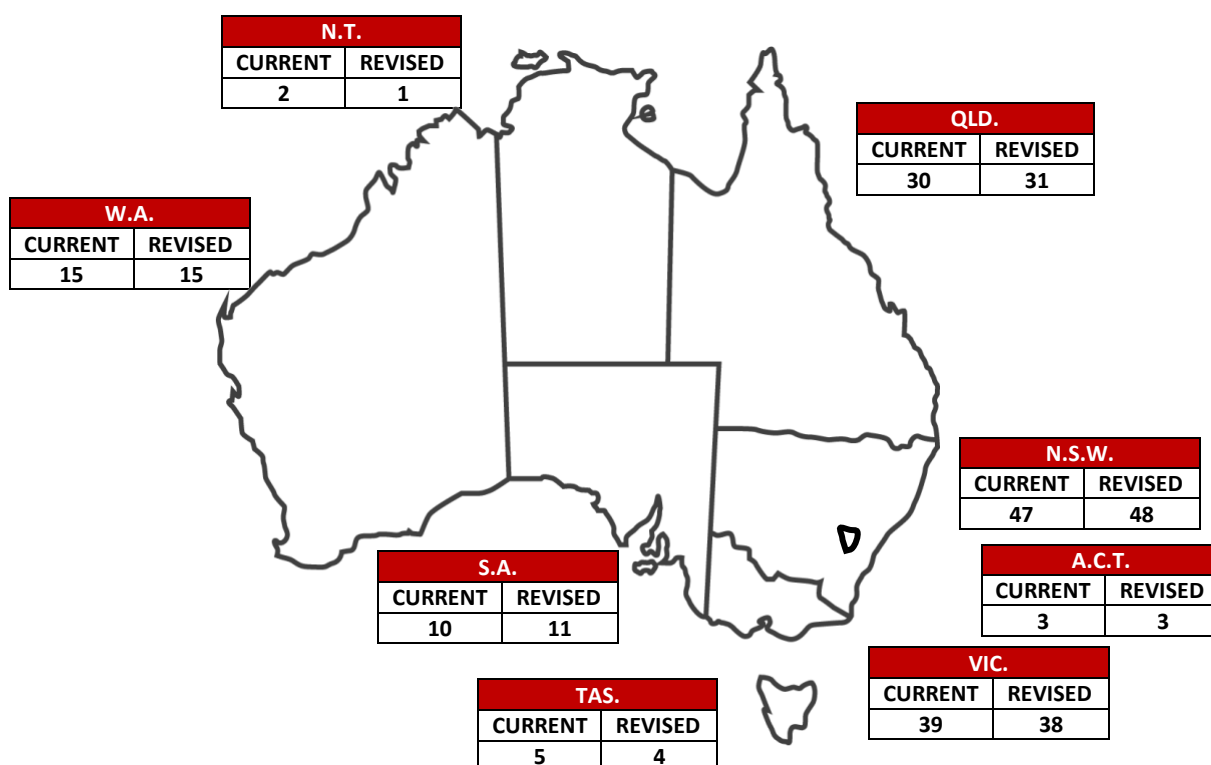
We understand the minimum figure was included to settle fears held by smaller colonies that the proposed federal model for Australia's parliamentary system could be dominated by larger states. Electoral laws have evolved since Federation along with public expectations that they be as fair as possible and that incumbent government can no longer blatantly skew or gerrymander them to gain electoral advantages.

We believe that current electoral laws do achieve as far as can be reasonably expected, the aim of "one vote, one value" in the House of Representatives.

Our basic analysis of enrolments and seats (*below*) shows the original House of Representatives did offer some states – not only the larger ones – proportionally more seats than their respective shares of enrolled voters. However, the same simple analysis applied to the 2022 federal election shows a close alignment between the share of voters and seats.

HOUSE OF REPRESENTATIVES								
STATE	1901 FEDERAL ELECTION				2022 FEDERAL ELECTION			
	VOTERS	% OF TOTAL	SEATS	% OF TOTAL	VOTERS	% OF TOTAL	SEATS	% OF TOTAL
NSW	328,765	33.3%	26	34.6%	5,467,993	31.7%	47	31.1%
VIC	275,933	27.9%	23	30.6%	4,339,960	25.1%	39	25.8%
QLD	100,202	10.1%	9	12%	3,501,287	20.3%	30	19.8%
SA	154,281	15.6%	7	9.3%	1,270,400	7.3%	10	6.6%
WA	89,045	9%	5	6.6%	1,772,065	10.2%	15	9.9%
TAS	39,528	4%	5	6.6%	401,852	2.3%	5	3.3%
ACT	n/a	n/a	n/a	n/a	314,025	1.8%	3	1.9%
NT	n/a	n/a	n/a	n/a	145,851	0.8%	2	1.3%
<b>TOTAL</b>	<b>987,754</b>	<b>100%</b>	<b>75</b>	<b>100%</b>	<b>17,228,900</b>	<b>100%</b>	<b>151</b>	<b>100%</b>

Applying the proportion of enrolled voters and rounding up or down, the following number of seats would apply under a strict application of proportional representation for each state and territory.



We suggest there would need to be a referendum to alter the current guaranteed minimum number of seats set out in the Constitution.

There would also need to be a strong political will evident in a government seeking to alter the proportion of seats allocated to each state or territory, especially if seats were to be taken away.

Finally we would argue that if proportional representation were to apply across states and territories for seats in the lower house, then fairness would dictate that the same proportions should apply in the Senate.

Any proposal to alter the current allocation of Senate seats would also require a referendum to change the Constitution. and, we suggest, an even stronger political will on the part of an incumbent government that is unlikely ever to be evident

In light of all of the above, we do not support altering the current principles applying to our federal electoral system, except for the breaking of the nexus between the two houses of Federal Parliament and a uniform reduction in Senate numbers per state as mentioned above in relation to TOR (b).

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**RECOMMENDATIONS – TOR (g):**

**We believe the current allocation of seats across states and territories achieves “one vote, one value” as closely as possible.**

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