



FACULTY OF LAW

GEORGE WILLIAMS AO

DEAN

ANTHONY MASON PROFESSOR
SCIENTIA PROFESSOR

12 August 2019

Committee Secretary
Joint Standing Committee on Electoral Matters

Dear Secretary

Inquiry into 2019 Federal Election

The 2019 election has exposed problems with how we elect our federal representatives. One issue was the many disendorsed candidates who appeared on the ballot paper. Others include the lack of transparency for voters in who funded the campaigns. Another is the remarkable rise of pre-poll voting.

Pre-poll voting has become so popular that it is redefining what it means to hold a federal election. This has happened by accident rather than through deliberation or design. The result is that Australia no longer has a single election day. In 2019, voters could cast a ballot on any one of 17 days spread over three weeks, with the final opportunity being on 18 May. The result was an election process like that of India where polling is spread over weeks.

Pre-poll voting is provided for by the *Commonwealth Electoral Act 1918*. It provides that a person can vote early when they cannot attend a polling booth on election day. There is a long list of excuses, including that a person will be too far from a polling booth, travelling, in prison, at work, about to give birth or that voting on election day conflicts with their religious beliefs. Each makes sense, and indeed these exceptions should be applied broadly so that every person can cast a vote.

The problem with pre-poll voting lies not in the idea, but in its execution. It defies belief that so many people will fit into one of these exceptional categories. It demonstrates how the system has become so permissive that people can vote early even when they have no reasonable basis for doing so. An exceptional method of voting has become the norm for vast numbers of Australians.

The key driver is convenience. Turning up at the ballot box on election day has become too much of a chore for many people, and they prefer to take the easier path of pre-polling. Convenience though is no justification under the law, and so these people must mislead

electoral officials that they fit into one of the exceptional categories. The community has come to accept this as a reasonable practice.

The result is a distorted election process in which many people elect their representatives based on incomplete information. Much of the electorate cast their ballot before Labor released its election costings and Prime Minister Scott Morrison launched his campaign. The lack of information can prove decisive, especially in close contests where votes may have shifted if people were exposed to the full suite of policies and campaign gaffes, or where candidates were disendorsed.

Changes must be made if pre-poll voting is to stay in its current form. Most of the 2019 election campaign overlapped with pre-poll voting. This is unsatisfactory, and the campaign may need to be lengthened to ensure that candidates and parties can explain their policies and make announcements before pre-polling begins. The blackout on election advertising on television and radio immediately before election day should also be re-examined. It makes little sense to impose the blackout after millions of voters have already made their choice.

A better approach is to recognise that pre-poll voting has got out of hand and needs reform. The period of pre-poll voting could be shortened from three to at most two weeks in line with NSW and Victoria.

Better checks could also be put in place to ensure that those who seek to pre-poll have a genuine problem in getting to the ballot box. A simple requirement to provide some form of evidence may turn many people away from pre-poll voting.

Removing some of the convenience of pre-poll voting for those without a legitimate excuse risks community anger. People shop online and bank without ever visiting a branch. Many will wonder why they must attend a ballot box in person on one day to have their voice heard.

They also have a right to expect a convenient way of voting. The law compels them to take part in the election because of our system of compulsory voting. Their participation should be made as easy as possible.

In the longer term, Australia needs reform that better balances the convenience of voters with the integrity of the electoral process. Options include fully embracing the idea of multiple election days by enabling every person to choose when they vote over say four days or at most a week. Another is to maintain a single election day by moving to online or telephone voting so that people can cast a ballot from any location. Systems like this are already being rolled out elsewhere in Australia and in other nations.

Yours sincerely

George Williams AO