

ALASKA
7262

LEGISLATURE
HOUSE STATE

COMMITTEE
AFFAIRS

FILES

1991-1992

8672

When any section of the population can throw or assist in throwing, the election to one candidate or the other, and perhaps to one party or the other, they acquire a balance-of-power strength out of all proportion to their size and importance. The problem of exaggeration of pressure groups because of the single-member system of representation is particularly serious in a country like the United States where the parties are not responsible nor disciplined in the British sense. The Hare-Clark system, with its quota method of election and its large electorates, helps to keep the influence of small groups more in proportion to their size.

F. HARE-CLARK RELIEVES PARLIAMENTARIANS FROM MUCH NARROW PAROCHIAL PRESSURE AND CAUSES THEM TO BROADEN THEIR OUTLOOKS.

Large electorates necessitate a broad point of view and militate against the narrow parochialism characteristic of single-member electorates, where "parish-pump" pressures are notorious. When a member is responsible solely to a relatively tiny constituency it becomes difficult—if not at times politically hazardous—to take a broad view when local vested interests are involved. Even in the smallest and most homogeneous of the Hare-Clark electorates, namely, Denison, it is more in the general interest that members speak for all of Denison than represent possible individual single-member subdivisions thereof, such as Sandy Bay or Moonah or Hobart Central. The generalisation "the smaller electorate, the smaller the member" points out an advantage of the Hare-Clark provision for larger electorates.

G. HARE-CLARK ENCOURAGES THE PEOPLE TO CHOOSE MEMBERS OF HIGHER CALIBRE.

This results not only from use of large electorates which necessitate a broad point of view but also from the greater competitiveness for political survival under Hare-Clark, which, providing no safe seats, also confronts each member with many rival candidates. With competition keen at election time as well as between elections, far heavier demands are made on the members under Hare-Clark than under single-member systems. This heavier responsibility on Tasmanian M.H.A.'s benefits the public because it results in better service to the electors and also tends to discourage weaker candidates from standing for Parliament.

Moreover, the large multi-member electorates under Hare-Clark cause all Parliamentarians to confront a much wider set of problems than under one-member electorates. The effect on outlook and knowledge necessarily is broadening. For candidates unable or unwilling to face this challenge of a big Hare-Clark electorate, the appeal of the small single-seat district can, understandably, be strong. In the public interest, however, it is better to have a system like Hare-Clark which leads candidates to concern themselves with broader public policies and the more important needs of their large electorates than concentrating on narrowly local interests. The candidate of limited ability whose success in single-member electorates depends heavily on facility at "hand-shaking and baby-kissing" among a local following will find political life more difficult under Hare-Clark conditions.

H. HARE-CLARK AVOIDS THE TWIN EVILS, COMMONLY OBSERVED IN SINGLE-MEMBER SYSTEMS, OF COMPELLING THE DEFEAT OF ABLE CANDIDATES OR ENFORCING THE ELECTION OF INFERIOR ONES.

Since the single-member system permits the election of only one candidate per electorate, this means of course that when more than two outstanding candidates nominate from the same electoral district one must be defeated and when two unqualified candidates nominate for another seat one must be returned. This is not merely a theoretical objection, but a practical weakness of the single-member system observed in some degree at every general election.

This inevitable defeat of some excellent candidates and the equally inevitable election of some inferior ones is avoided by the multi-member feature of Hare-Clark, which has permitted, for example, the electors to choose both the Premier and the Leader of the Opposition from the same electorate, as illustrated in Denison.

1950-55. The simultaneous election of the strong candidates of both parties is taken for granted under Hare-Clark.

I. HARE-CLARK PROVIDES AN OPPORTUNITY FOR MINOR PARTY AND NON-PARTY REPRESENTATION.

As the underlying principle of the Hare-Clark philosophy of representation is securing the best possible reflection of public opinion, provision for minority representation is a necessary feature of its electoral machinery. The fair representation of the whole of society cannot be assured unless opportunity is provided for the representation of its parts. One requirement, therefore, is multi-member electorates, not single-member ones, for there of course is no way to apportion only one seat between two or more competitors. Multi-member seats permit a fair apportioning of representation, whether divided exclusively between two major parties or shared with minor party candidates. Although the remarkably wide choice of candidates under Hare-Clark provides exceptional satisfaction for the electors within the two-party system, should the electors feel a need for representation outside of the two major parties, the Hare-Clark system makes it available to them provided they can poll 14.3% of the total votes in a six-member electorate or 12.5% in a seven-member one.

While these percentages represent, when expressed in terms of actual votes, close to twice as many votes as would be required for election under the single-member system^(*), the large, multi-member electorates provide a wider area from which to attract the necessary quota. Hence, non-party candidates with substantial support in more than a local area can, and sometimes do, win election under Hare-Clark, as seen in Table VI. With single-member electorates, substantial minorities are excluded unless they happen to be concentrated geographically.

In respect to representation of minorities, Hare-Clark and the single-member system offer sharp contrast: Hare-Clark, which offers a systematic and assured way for non-major party representation, makes this potential representation less necessary because of the high satisfaction resulting from the extensive selection of candidates furnished by the two major parties. On the other hand, single-member electorates, which make no planned provision for minority or non-party representation, increase the need for it because of the restricted expression and poorer satisfaction which they give the electors. Single-member electorates therefore both create the need for better representation and frustrate the realization of it.

J. HARE-CLARK AVOIDS HIGH ADMINISTRATIVE COSTS AND TECHNICAL DIFFICULTIES OF THE SINGLE-MEMBER SYSTEM.

As these advantages of the Hare-Clark system apply with particular force to Tasmania, this topic is discussed with special reference to this State later on. Two general advantages of Hare-Clark from technical consideration can be mentioned now. First, the Hare-Clark method permits extensive economies in administration because of the larger unit of representation. One example is electoral rolls: They are more easily maintained, especially under a system of compulsory enrolment as in Australia, if subdivisional and divisional units are fewer and larger. Another example: The larger the electorate, the less frequent the need for redistributions.

Second, Hare-Clark features remove one inevitable and formidable technical drawback to single-member electorates, namely, the difficulty of establishing and maintaining satisfactory electoral boundaries. In order to lay out a plan of single-member districts of approximately equal size with attempted due regard to such guiding factors as community of interest, means of transportation, and physical features, many arbitrary demarcations are required. The much larger electoral units employed under Hare-Clark permit more logical electoral divisions.

(*) For example: With a total State-wide formal vote of 100,000 and 35 single-member electorates of equal size, the quota for election would be 2,857 votes. With the same vote and 35 seven-member Hare-Clark electorates the quota would be 4,001 votes.

When plans for redistribution are announced in most Mainland States the cry of gerrymandering is normally raised by the Opposition. If this charge refers to intentional gerrymandering, it is true in some but not all cases. Many times the cause for complaint often arises simply from the necessities of cutting up the map arbitrarily to compensate for population changes within electorates. When districts are small, a large measure of objectionable, but unavoidable, boundary making is required. With the increase in electorate size the effect of population movement is reduced and at the same time the possibility of establishing more logical boundaries is improved.

K. HARE-CLARK ELIMINATES THE UNDUE INSECURITY OF MEMBERSHIP FACING MANY PARLIAMENTARIANS ELECTED UNDER THE SINGLE-MEMBER SYSTEM.

Snug security for some and "sudden death" for others is the rule of the single-member system. Not all members of Parliaments chosen from single-member electorates have safe seats. On the contrary, the occupants of "swinging" seats are put under a jeopardy which no member under Hare-Clark needs to fear. A capable, deserving member under the Hare-Clark system has reasonable expectation of being returned. But even a slight swing in public opinion under the single-member system, perhaps caused by reverses in party popularity completely beyond the control of individual members, can sweep from office those party members not lucky enough to have safe seats.

The extremes of unwarranted security for some and unreasonable jeopardy to others do not help to attract worthy prospective candidates into politics under single-member conditions. Moreover, members cannot give their best service if they live always under the disquieting possibility or likelihood of being "tossed out" at the next election—perhaps through no fault of their own.

Illustrations of drastic fluctuations in Parliamentary membership under single electorates are not difficult to find, for instance, Ceylon. Although the percentage of the total vote received by the United National Party declined, from the Parliamentary elections of 1952 to those of 1956, by 16%, its representation fell from 54 seats in 1952 to eight seats in 1956, or from 57% to 8% respectively. While the vagaries of single-member electorates inflated the representation obtained by the U.N.P. in 1952, the electoral gamble severely under-represented it in 1956.

Another example of the single-member system causing "sudden death" for sitting members is furnished by the two general elections for the Canadian House of Commons in the past year. As a result of the June, 1957, election a Liberal Party membership in Parliament dropped from 171 to 104 and that of the Progressive Conservative Party increased from 50 to 110. The effects of the March, 1958, elections showed even greater fluctuation, as the Progressive Conservatives gained in seats from 110 to 209 and the Liberals fell from 104 to 47. Within a one-year period, therefore, Liberal Party Parliamentary membership dropped from 171 to 47 and that of its chief opponent rose from 50 to 209 (a).

L. HARE-CLARK AVOIDS THE "REGIMENTED" "DOWN-THE-TICKET" VOTING PRACTISED IN AUSTRALIAN SENATE ELECTIONS ON THE MAINLAND AND SOMETIMES IN TASMANIA.

Under the Hare-Clark system the elector makes his selections with fullest freedom, uninfluenced by the numbered type of how-to-vote cards generally used in Senate elections.

The heart of the success of the Hare-Clark system could be said to be this unhampered freedom of the electors to pick and choose as they please. If the listing of candidates on the ballot-paper were determined by "mutual consent," as in the Senate elections, and combined with the use of numbered how-to-vote cards, a great measure of the value of Hare-Clark would be destroyed. In contrast, the Hare-Clark system provides for an alphabetical listing of candidates, and no attempt is made by the political parties to suggest to their supporters any prescribed order for marking preferences. If voting "to order" "down the ticket," as in Senate election style, were followed, the choice of members

(a) Figures for 1958 are from latest Press reports available, which noted the results for 104 of the 283 seats in the Canadian House of Commons, one seat being in doubt.

of Parliament would pass, for all practical purposes, from the voters to political party management. As the Hare-Clark system now is, it provides the Tasmanian elector with a more effective vote among a wider range of candidates than any other method of Parliamentary election in the world.

The free selection under the Hare-Clark system assures competition among candidates and keeps the elector sovereign. This unequalled privilege of choice is therefore one of the most significant values of the voters' franchise in Tasmania and sets Hare-Clark in a class apart from the Senate election system, which otherwise follows the Hare-Clark system in most features. May it be hoped that the superior Hare-Clark example will serve as a model and incentive for improving the Australian Senate system.

Objections to Hare-Clark^(a).

Little on earth is perfect, and this generalisation applies to Hare-Clark as well, even although its overall drawbacks are relatively slight. Besides, almost all complaints are from the Parliamentarian's point of view, not the elector's. One objection is that the multi-member electorates involve the members in costly travel required for attending to their duties in serving large constituencies.

From the angle of expense, this claim is quite valid, particularly for members outside Denison. The answer, however, is not to cut up the State into 30 or 35 single electorates—and bring the evils of single-member representation into Tasmania—but to provide an adequate travel allowance for members so that these costs do not draw too heavily from their modest salaries^(b). In a small single-member electorate much recompense for travel would not be justified, but a large Hare-Clark electorate is another question and warrants increased subsidisation of travel expenses. There is no denying that the advantages of large electorates do necessitate greater cost in travel.

Another complaint is that the large Hare-Clark electorates cover such a wide scope of different industries, interests, and problems that it is difficult for members to keep abreast of the many diverse activities on which they are expected to be informed. Small, single-member divisions, it is claimed, would save members from the necessity of getting acquainted with this wide range of activity. The demands on members under Hare-Clark are greater than they would be under small electorates. From the elector's viewpoint, however, this complaint becomes an advantage.

The contact with varied and more complex problems under Hare-Clark is most educational and militates against the parochialism so characteristic of small electorates. Both consequences are as they should be—from the public's point of view. In their interest it is best for the electoral system to be geared to attract the more capable and energetic candidates; if weaker members find the large Hare-Clark electorates too difficult to represent, the adjustment should not be to tailor the electorates to suit these members, but to let the seats be filled by those to whom the large electorates are not too great a challenge.

A further objection to Hare-Clark made by some members is that the competition for No. 1 votes results in undesirable manifestations of rivalry between candidates of the same party. What solution do these members sometimes suggest?—use of single-member electorates. And why?—for the avowed purpose of eliminating as much competition between persons as possible, in order to make contests more strictly a struggle between parties.

This suggested "solution" to reduce rivalry for No. 1 votes, therefore, is to take from the electors their present breadth of choice in order to suit the private conveniences of a few members who wish to by-pass as much competition as they can. The elimination of the right of electors to pick and choose among candidates

(a) As footnoted on p. 5, the subject of advantages and disadvantages of Hare-Clark is being analysed in a documented study now under preparation. Necessarily, this section of the paper must be concerned with conclusions, not detailed evidence.

(b) Contributions to charities, societies, and clubs, plus travel expenses and other costs involved in serving their electorates, consume a far greater part of a member's recompense than the average person realises.

would strike at the heart of the Hare-Clark system. The opportunity for electors to select between candidates as well as between parties has always been considered an integral part of the Hare-Clark philosophy of representation; attempts to abrogate this opportunity of choice are simply an undisguised effort to abridge democracy and curtail the special electoral privilege which distinguishes Hare-Clark from lesser systems.

If candidates should fail to observe fair play with their party colleagues in campaigning for No. 1 votes among supporters of their own party, this condition is not really a fault of the Hare-Clark system, but the result of the absence of a candidate's code of rules for campaigning. With proper loyalty to one's party and regard for one's colleagues, the existence of competition for No. 1 votes need not be objectionable—except to members who want no competition at all. An electoral system cannot both provide the advantages of competition and at the same time eliminate it.

Fortunately, many members realise that the rivalry among members of the same party within the same electorate is healthy and desirable and results in better representation for the electors. Furthermore, candidates who object to this competition within parties should realise that single-member electorates frequently put pressures on candidates in several ways which multi-member electorates do not, namely: (a) If a seat is a safe one, competition for party endorsement is exceedingly severe; (b) If the seat is a "swinger," extreme uncertainty about tenure subjects the holder to undue pressures from small, but potentially balance-of-power constituent groups; (c) Pitting one candidate directly and specifically against a single opponent often gives rise to certain undesirable campaign conditions (like public mud slinging), which are comparatively rare under Hare-Clark.

In any case, a good deal of whatever intra-party rivalry now exists would be eliminated if seven-member districts were adopted, for the reasons noted in the report of the Select Committee last year⁽¹⁾.

An objection to Hare-Clark held by some is that the man in the street does not understand the counting procedure. In view of the lack of printed material on Hare-Clark at the present time, this is not surprising. With education on the subject, however, the problem could be solved. In any case, there is little more need for the man in the street to understand the methods of counting votes (which is the job for the returning officer) than there is for him to know the intricacies of his watch or wireless set.

Part III.

WHY SIX-MEMBER ELECTORATES ARE FAULTY.

The use of six-member electorates is gravely defective because it cannot provide the premise fundamental to a democratic electoral system, namely, that a majority of the voters within an electorate shall be assured of the right of returning a majority of members in that electorate. Only a system like Hare-Clark can give an assurance of majority rule, and Hare-Clark can do it only if an odd, rather than even, number of members is chosen from the electorates.

As the electoral quota under Hare-Clark is based upon the number of seats to be filled, the existing six-member quota is 14.3 per cent of the valid votes cast in each electorate. Consequently, one party can receive as few as 42.9 per cent of the votes (just three quotas) and obtain three seats, and the other party can receive almost 57.2 per cent and still obtain only three seats. If an odd number of members is chosen within an electorate, any party or any group obtaining a majority of the votes, no matter how slight, must win a majority of the seats in that electorate. Yet, when even numbers are chosen, if the majority party does not exceed the minority by at least one quota of votes, the minority party will receive representation equal to that of the majority.

⁽¹⁾ Report of the House of Assembly Select Committee on Electoral Reform, Parliamentary Paper No. 19 of 1957, p. 8.

Since the electoral quota for seven-member electorates would be 12.5 per cent, a party would win three seats if it obtains 37.5 per cent of the votes. If this party wins another quota of votes, thus obtaining a majority of the total votes of the electorate^(a), it must win the fourth seat.

In Tasmania, as in other countries with a two-party system, differences in voting strength between the major parties, taken on total votes over large areas, are usually fairly small. Hence a difference of 14.8 per cent of the votes (the size of a six-member quota) would be exceptional, and the possibility of a party obtaining a fourth seat remote. The likelihood, therefore, of two parties receiving an equal number of three seats each per electorate, despite unequal voting strength in the electorate concerned, is theoretically very probable—and has been demonstrated by experience as well.

As seen in Table II, the Hare-Clark system has been used for 17 general elections since its adoption, making a total of 85 separate elections for all five electorates. Although six different representation patterns have occurred in these 85 elections, in 44 cases the representation per electorate was three seats for Labor and three for non-Labor. Excluding the exceptional years of 1909, 1931, and 1941, there have been only 12 cases in the history of Hare-Clark where one party was able to obtain four of the six seats. Since World War II only once has a party been able to win the fourth seat within any electorate.

An unjust feature of these 44 cases of 3—3 "dead heat" results is that in most cases the support given to the majority party was markedly greater than that received by the minor party. As seen in Table III, there have been only eight instances where the two parties were separated by less than 2 per cent of the total votes cast. Any difference in votes between the parties greater than 5 per cent over a large area like a six-member electorate, can be considered to be marked; yet almost one-third of the cases of equal party representation have occurred when the difference in total votes has been between 5.0 and 9.9 per cent. In one-fourth of the cases the difference has exceeded 10.0 per cent.

Equal party representation on unequal voting strength is a denial of electoral justice to the voters. While this condition is not to be compared with the frequent injustice under single-member electorates, where the majority party commonly obtains only a minority of the seats, the fault is nevertheless grave and cannot be reconciled with precepts of democratic representation.

Thanks to the ingenious features of the existing Parliamentary "deadlocks" law, commonly known as the Lyons' Bill^(b), some cases of equal party representation are dealt with in such a way as to provide both electoral justice and a workable Parliament, namely, in those instances when the two parties are divided 15—15 in the House and happen also to be supported by the electors in nearly equal voting strength. In cases like the elections of 1955 and 1956, however, when the Government party obtained State-wide majorities of approximately 11,000 votes^(c), the concession of the equivalent of an extra vote in the House was not in reasonable proportion to its popular majority. Unless the voting strength of the parties in Parliament is reasonably proportional to the support they received in the country, electoral justice to the voters is not accorded.

In cases where the parties are not returned 15—15, the Parliamentary "deadlocks" law does not apply, and the defect of six-member electorates then looms even greater. It is quite possible

^(a) Because of the exhaustion of votes the last candidate is often elected without a quota. The party winning four seats sometimes might appear, therefore, to have less than a majority of votes at the conclusion of the count.

^(b) Formally called the Constitution Act (No. 2) of 1944, this law provides that if the two parties are returned in equal numbers of 15 each the majority party forms the Government, and the Opposition party has the privilege of supplying the Speaker. The party which obtains the most primary votes on a State-wide basis is declared the majority party. If the minority party declines to provide the Speaker and the majority party does so, it is permitted to replace the member chosen as Speaker by a recount of the ballot-papers which elected the Speaker to Parliament.

^(c) 11,003 votes in 1955 and 10,619 in 1956.

as a consequence of six-member districts, for a party to receive a majority of the votes in every electorate but one, and yet receive fewer seats than the party with a minority of the total vote. A situation like this in fact occurred in 1928 when the Labor party received either an absolute or relative majority over the Nationalist party in State-wide totals and in each of the five electorates, yet lost to the Nationalists. This occurred because the Labor majorities were not large enough to gain the fourth seat in any electorate and because in one electorate (Franklin) Mr. B. J. Pearsall, an Independent, was narrowly elected, causing Labor to lose the third seat in that division. Despite Labor's lead over the Nationalists in popular votes, as seen in Table V., Labor lost to the Nationalists by 14 seats to 15, plus Mr. Pearsall, who supported the Nationalists in Government.

In 1950 the Liberal party potentially could have been in the position of Labor in 1928, as the victory by Mr. W. G. Wedd, an Independent, prevented the Liberals from winning a third seat in Denison. The representation after that election was 15 Labor, 14 Liberal, and Mr. Wedd, who supported Labor in Government.

TABLE II (a).

Representation of Parties and Independents in Respect to Frequency of Patterns of Representation Within Electorates, House of Assembly Elections, 1909-1956.

Year	Patterns of Representation (b)						Total Electorates
	3-L, 3-N.L.	4-L, 2-N.L.	2-L, 4-N.L.	3-L, 2-N.L, 1-Ind.	2-L, 3-N.L, 1-Ind.	2-L, 1-N.L, 2-Ind.	
1909	..	..	3	..	..	..	3
1912	4	..	1	..	..	..	3
1913	4	..	1	..	..	..	3
1916	3	..	1	1	..	..	3
1919	2	..	2	1	..	..	3
1922	2	..	2	..	1	..	3
1925	2	1	..	1	..	1	3
1928	4	..	..	..	1	..	3
1931	..	..	4	..	1	..	3
1934	2	..	..	2	1	..	3
1937	2	3	..	..	..	..	3
1941	..	3	..	..	..	..	3
1946	2	1	..	2	..	..	3
1948	3	..	..	1	..	1	3
1950	4	..	..	1	..	..	3
1953	2	..	..	..	..	..	3
1956	3	..	..	..	..	..	3
	44	10	10	8	4	2	-33

Frequency of Occurrence of Patterns

(a) Following the first Hare-Clark election of 1909, a two-party political system developed in Tasmanian State politics. The Labor party side of politics has continuously been known by this name or the fuller designation, the Australian Labor Party. The non-Labor party has been known by several names, first Liberal, then Nationalist, then United Australia, and now the Liberal Party. In Tables covering a period of years, the term "non-Labor" is used if the name of the non-Labor party changed during the period under reference.

(b) The patterns of representation refer to the number of seats won by the respective contestants within the five electorates. "L" denotes the seats won by the Labor party, "N.L." by the non-Labor party, and "ind." by independent candidates. Six seats are Allied in each electorate. Since 1909 there have been only six different patterns of representation, or ways in which the seats have been divided, as noted in the table.

In view of the loss of the third seat in Denison, the Liberal party could have had nearly a fourth quota in four electorates, or a possible State-wide majority of over 15,000 votes, and still have remained in Opposition.

The six-member electorate, by preventing the majority of the voters from generally returning a majority of the members from any electorate, can allow the anomalies cited above to occur. Use of a seven-member electorate will enable the majority party in each division to obtain its rightful due, and the certainty of the majority party obtaining a majority of the seats can normally be expected.

TABLE III.(a).

Size of Majority Recorded for Larger Party in Cases of 3-3 Division of Seats Between the Two Parties, House of Assembly Elections, 1903-1956.

Majorities for Labor.	Majorities for Non-Labor.
4	2
6	8
10	22
16	27
16	30
18	36
20	36
22	40
23	36
20	51
28	114
36	120
40	124
41	127
46	146
70	15 cases
73	
75	
79	
83	
84	
89	
92	
112	
114	
118	
135	
149	
154	
29 cases	

SUMMARY.		
Size of Majorities	No. of Cases	
Under 2 per cent	=	8
20 to 49	=	11
50 to 99	=	14
Above 100	=	11

(a) The percentages of difference are between the major parties within electorates and are based on first preference votes. All votes included in Tables of this paper refer to first preferences. Because cross-voting between parties is extremely small, calculations on first preferences are quite satisfactory for many types of analyses.

Summary of Part III.

Equal party representation on unequal voting strength is a denial of electoral justice to the voters. Six-member electorates, even with the present Parliamentary "deadlocks" law, cannot guarantee majority rule. Commendable though the "deadlocks" law is in mitigating one type of misrepresentation, it does not, and cannot, provide the correction for the many anomalies which result from six-member electorates.

TABLE IV.

Summary of Representation on Electorate Basis, House of Assembly
Elections, 1909-1936

		Bass	Braddon	Denison	Franklin	Wilmot
1909	.. ..	2-4	2-4	2-4	2-4	2-4
1912	.. ..	(3.6%)	(5.6%)	(2.2%)	(14.6%)	2-4
1913	.. ..	(.0%)	(2.2%)	(4.0%)	(12.4%)	2-4
1916	.. ..	(7.0%)	3-2-1	(.8%)	(3.6%)	2-4
1919	.. ..	2-4	3-2-1	(11.4%)	(7.1%)	2-4
1922	.. ..	2-3-1	(3.0%)	(12.7%)	2-4	2-4
1923	.. ..	(.2%)	(3.0%)	4-2	3-1-2	3-2-1
1928	.. ..	(9.2%)	(1.0%)	(.5%)	2-3-1	(8.9%)
1931	.. ..	2-4	2-4	2-4	2-3-1	2-4
1934	.. ..	(1.0%)	(12.0%)	3-2-1	3-2-1	2-3-1
1937	.. ..	4-2	(13.4%)	4-2	4-2	(13.3%)
1941	.. ..	4-2	4-2	4-2	4-2	4-2
1946	.. ..	4-2	(1.8%)	3-2-1	3-2-1	(14.8%)
1948	.. ..	(11.8%)	(2.0%)	3-1-2	3-2-1	(8.0%)
1950	.. ..	(8.4%)	(5.6%)	3-2-1	(2.3%)	(2.3%)
1955	.. ..	(7.6%)	(6.0%)	(8.3%)	(3.6%)	(11.4%)
1956	.. ..	(7.0%)	(1.0%)	(7.3%)	(6.1%)	(11.2%)

Key:

1. Designation of seats won:

By Labor—in light figures.
By Non-Labor—in heavy figures.
By Independents—in italic figures.

2. In case of 3-3 division of seats between the two parties, the size of the majority of larger party is indicated in percentage in appropriate type style to designate which party received the majority of votes.

Part IV.

WHY THE SOLUTION DEPENDS ON SEVEN-MEMBER ELECTORATES.

The return of an odd number of members within electorates is required, as noted in preceding sections, to assure the successful operation of the electoral mechanism of the Hare-Clark system. The next question is *which* odd number should be used, 3, 5, or 7? This section will endeavour to show that regard for both sound electoral principles and special conditions prevailing in Tasmania virtually limits the avenues of solution to one proposal, namely, the election of seven members from each of the existing five electorates.

Three-Member Electorates.

In respect to electoral principles, three-member districts are quite unsatisfactory. Firstly, the relatively small three-member electorates would almost certainly promote a parochialism now fortunately absent in House of Assembly electorates. Secondly, the resultant two to one division of party representation within electorates would introduce objectionable features. For example, on one hand, if the two parties in some electorates are almost evenly divided in voting strength, severe distortion of representation will result because one party, with only slightly more votes, must gain twice as many seats.

On the other hand, the smaller three-member districts would mean that some electorates would have unchallengeable majorities for one party or the other. Consequently, the certain foreknowledge of a 2—1 result in favour of the Liberal party in some electorates and the Labor party in others would greatly reduce competition between the parties in these electorates. Three-member electorates would introduce in a modified form some of the evils of "safe" seats under the single-member system.

Thirdly, three-member electorates would drastically curtail the desirably wide selection of candidates now available to the electors. Fourthly, use of a three-member electoral quota would necessitate an unduly large number of unutilised, remaindered votes. With seven-member electorates the unrepresented fraction is 12.5%, but with three-member electorates, it is 26%.

TABLE V.
General Election Results, House of Assembly, May 30, 1928.
(In Votes and Percentages within Electorates.)

	Bass	Darwin	Denison	Franklin	Wilmot	Total Votes for Parties
Labour	9,368 (3)	8,758 (3)	7,545 (3)	7,886 (2)	8,274 (3)	41,831 (14)
Nationalist	7,795 (3)	8,574 (3)	7,418 (3)	6,783 (3)	6,832 (3)	37,432 (15)
Independents	—	1,413	3,138	3,450 (1)	1,142	9,443 (1)
Totals per Electorate	17,163	18,745	18,431	18,119	16,248	88,706

NOTE.—Number of seats won is indicated in parentheses.

Five-member Electorates.

The shortcomings of three-member electorates from the standpoint of principle apply in a lesser degree to five-member electorates. For example, a 3—2 ratio in dividing seats between two parties

of nearly equal strength is too rough for proportioning the representation closely. A 4-3 distinction supplies a much truer and more reliable result. The unrepresented fraction of votes within each electorate is now 14.3%; this amount would decrease to 12.5% with seven-member electorates, but increase to 16.7% if five members were chosen. Five-member electorates would reduce, rather than improve, the selection of candidates available to the elector.

Unless the present electoral boundaries were dispensed with, five-member electorates would require a 25-member House, which would obviously be too small for effective Parliamentary government under present-day conditions. If seven new electorates returning five members each were established, smaller districts would result, giving rise to certain disadvantages because of existing concentrations of political party strength in various areas of Tasmania. As noted by the Select Committee (a), the use of seven five-member electorates would probably mean that four or five of the electorates would have "safe" majorities for either one party or the other. Since the resultant 3-2 victories by one party in two of the electorates would be offset by 3-2 victories for the other party in two or three electorates in which it had a strong majority in voting strength, the effective decision as to which party would win the election would rest in two or three electorates only. The result probably would be "a much more frequent occurrence of small majorities for the governing party than would be the case with five seven-member electorates" (b).

With five seven-member electorates instead of seven five-member ones, the variations in party voting strengths within electorates are smaller because larger electorates encompass a wider range of people, thus producing a more average result in terms of distribution of party voting strength. Fewer and larger electorates provide a better cross section of the State than smaller, more numerous ones. Consequently, the same fairly close balance between the two parties on a State-wide basis is found also within most of the present electorates, almost all of which could be considered "swinglers." "Swinging" electorates result in more competition between parties and in the greater probability of the winning party having an adequately ample majority in Parliament. The existing five electorates are large enough to permit almost all of them to be a fair average of the State. Three-member or five-member electorates in a 30 or 35-member House are too small to encompass a fair cross section.

Practical Considerations.

In addition to superiority with regard to the paramount consideration of principles of representation, the election of seven members from existing electorates is desirable because of extremely important practical factors. The seven-member plan permits complete utilisation of joint Commonwealth-State electoral boundaries and rolls. This joint arrangement is most advantageous financially and also saves Tasmanian electors from the inconvenience of contending with separate enrolment systems for Federal and for House of Assembly purposes.

Any electoral changes incorporating either three-member or five-member districts with a 30- or 35-member House would necessitate separate State electoral boundaries. This change would mean the establishment of new boundaries initially, and periodic redistribution thereafter. Moreover the use of electorates smaller than the present ones would make the need for redistributions more frequent. Boundary changes involve appreciable costs and must contribute to confusion and inconvenience for electors.

With seven five-member electorates joint Commonwealth-State rolls could be used, but some subdivisional changes would be necessary. With three-member districts most of the existing subdivisional boundaries would need to be altered and many new subdivisions created in order to make possible the use of joint rolls.

If single-member electorates were adopted for electing the House of Assembly, separate boundaries would of course be required, and the present joint Commonwealth-State rolls could not be used without almost complete modification involving manifold

(a) Paragraph 12 of the Select Committee Report on Electoral Reform, Parliamentary Paper No. 59 of 1937.

(b) *Ibid.*

administrative problems (a). The cost alone of printing the latest joint rolls was £4,197 (b), and the work of maintaining and compiling the rolls is naturally far more expensive than printing them. Because of the unavoidable smallness of single-member districts in Tasmania, redistributions would need to be inordinately frequent. Factors of practicability would condemn the single-member system in Tasmania, if it were not already condemned on the basis of electoral injustice.

Application of Seven-member Quota to Past Elections.

Because of the extensive data on the Hare-Clark election result sheets it is quite possible to ascertain what results the seven-member quota would have produced if used in past elections (c). By re-working the original result sheets on the basis of the smaller seven-member quota, a clear-cut answer can be found in almost every case as to what the election outcome would have been if seven members instead of six had been chosen from each electorate. In elections where the difference in votes obtained by the respective parties was not close and where the vote for Independent or non-major party candidates was not large, the election results with a seven-member quota can be ascertained without re-working a full sheet.

(a) Discussion by Mr. Edward Parkes, Chief Electoral Officer of Tasmania, on the incompatibility of using single-member electorates and joint Commonwealth-State electoral machinery is contained on pages 59-65 of the evidence attached to the *Report of the Board of Enquiry on Parliamentary Deadlocks*, Parliamentary Paper No. 6 of 1951.

(b) Information supplied by Commonwealth Electoral Office, Hobart.

(c) Examples of the method used in re-working the House of Assembly elections of 1956 can be seen by examining the scrutiny sheets submitted by the State Electoral Department. See pages 64-68 of the evidence attached to the *Select Committee Report on Electoral Reform*, P.P. No. 59 of 1957.

TABLE VI.

Summary of Comparative Results of Past Elections for House of Assembly Based on Return of Six and Seven Members from each Existing Electorate.

	Actual Results Six-Member Quota			Results Calculated with Seven-Member Quota		
	A.L.P.	Non-Labor	Others	A.L.P.	Non-Labor	Others
1950	15	15	—	20	15	—
1955	15	15	—	20	15	—
1950	15	14	1	17	17	1
1948	15	12	3	18	14	3
1946	16	12	2	20	13	2
1941	20	10	—	23	12	—
1937	18	12	—	21	13	—*
1934	14	13	3 ⁽¹⁾	17	16	2 ⁽²⁾
1931	10	19	1	12	20	3
1928 ⁽³⁾	14	15	1	17	18	3
1912 ⁽⁴⁾	14	16	—	15	20	—
1909	12	18	—	14	21	—

* One seat not ascertained.

⁽¹⁾ 1934: Carruthers, Independent, elected without a quota as the sixth candidate in the original count, is not elected under the seven-member count.

⁽²⁾ 1934: One Independent was Pearsall, regarded as Nationalist in sympathy; the other Independent was Becker, who was Independent Labor.

⁽³⁾ For comment on 1928 election results, see text p. 18.

⁽⁴⁾ The Liberal party won the elections of 1912, 1916, and 1919. In the elections of 1922 and 1925 the Country party contested and won seats as well as the Nationalists and the Labor party.

TABLE VII.

Comparative Results of Past Elections for House of Assembly Based on Return of Six and Seven Members from Each Existing Electorate.

	Actual Results, Six-Member Quota.			Results Calculated with Seven-Member Quota. Seat Allocation, Additional Members, Remarks.			
	A.L.P.	Lib.	Others	1956 ^(a)			Name, Party
	A.L.P.	Lib.	Others	A.L.P.	Lib.	Others	
Bass	3	3	—	4	3	—	Madden, A.L.P.
Braddon	3	3	—	4	3	—	Taylor, A.L.P. Close contest ^(b)
Denison	3	3	—	4	3	—	Miller, A.L.P.
Franklin	3	3	—	4	3	—	Hand, A.L.P.
Wilmot	3	3	—	4	3	—	Spurr, A.L.P.
	15	15		20	15		

^(a) Results for 1956 supplied by State Electoral Department to Select Committee on Electoral Reform.

^(b) Note on Braddon: According to evidence available on official scrutiny sheet, Taylor would be elected. In view of closeness of margin between Taylor and Fidler (Lib.), however, it is possible that the latter, if aided by considerable exhaustion or cross-voting not detectable on the scrutiny sheet, could be elected instead of Taylor.

1955

	A.L.P.	Lib.	Others	A.L.P.	Lib.	Others	Name, Party
Bass	3	3	—	4	3	—	Atkins, A.L.P.
Braddon	3	3	—	4	3	—	Ward, A.L.P.
Denison	3	3	—	4	3	—	Bower, A.L.P.
Franklin	3	3	—	4	3	—	Crawford, A.L.P.
Wilmot	3	3	—	4	3	—	Fisher, A.L.P.
	15	15		20	15		

1950

	A.L.P.	Lib.	Others	A.L.P.	Lib.	Others	Name, Party
Bass	3	3	—	4	3	—	Oliver or Atkins, A.L.P.
Braddon	3	3	—	3	4	—	Breheny, Lib.
Denison	3	3	1	3	3	1	Duncan, Lib.
Franklin	3	3	—	3	4	—	Solomon, Lib.
Wilmot	3	3	—	4	3	—	Fisher, A.L.P.
	15	14	1	17	17	1	

1948

	A.L.P.	Lib.	Others	A.L.P.	Lib.	Others	Name, Party
Bass	3	3	—	4	3	—	Atkins, A.L.P.
Braddon	3	3	—	3	4	—	Acheson, Lib.
Denison	3	1	2	3	2	2	Duncan, Lib.
Franklin	3	2	1	4	2	1	Worsley, A.L.P. Close contest ^(a)
Wilmot	3	3	—	4	3	—	Burnell, A.L.P.
	15	12	3	18	14	3	

^(a) Whether Worsley, A.L.P., or Park, Lib., would win the seventh seat would depend on the distribution of Pearsall's preferences. As Mr. Pearsall, Ind., was runner-up in the original six-member count, the allocation of his preferences is not revealed on the result sheet. When asked how he thought his preferences would be distributed Mr. Pearsall stated that he believed Mr. Worsley would have received one-half of his (Pearsall's) preferences in Kingborough, and one-third of those from other subdivisions. Because of Worsley's lead over Park at the time of the exclusion of Pearsall, this would mean a narrow win by Worsley, although the margin would be close.

1946

	A.L.P.	Lib.	Others	A.L.P.	Lib.	Others	Name, Party
Bass	4	2	—	4	3	—	Hollingsworth, Lib. ^(a)
Braddon	3	3	—	4	3	—	Lane ^(b) , A.L.P.
Denison	3	2	1	4	2	1	Tyler, A.L.P.
Franklin	3	2	1	4	2	1	Hand, A.L.P.
Wilmot	3	3	—	4	3	—	Burnell, A.L.P.
	16	12	2	20	13	2	

^(a) Note that A.L.P. won 4—2 in actual contest but would win 4—3 with seven-member count.

^(b) Contest close between Acheson, Lib., and Lane, A.L.P., but result is not in doubt.

1941

	A.L.P.	Nat.	Others	A.L.P.	Nat.	Others	Name, Party
Bass	4	2	—	5	2	—	Welsh or Quintal, A.L.P.
Braddon	4	2	—	4	3	—	Wright, Nat.
Denison	4	2	—	5	2	—	Heerey, A.L.P.
Franklin	4	2	—	5	2	—	Plummer, A.L.P.
Wilmot	4	2	—	4	3	—	Foster, Nat.
	20	10		23	12		

1937

	A.L.P.	Nat.	Others	A.L.P.	Nat.	Others	Name, Party
Bass	4	2	—	5 ^(a)	2	—	McElwae, A.L.P.
Braddon	3	3	—	4	3	—	Aylett, A.L.P.
Denison	4	2	—	4	2	—	^(b)
Franklin	4	2	—	4	3	—	Pearnell, Nat.
Wilmot	3	3	—	4	3	—	Spurr, A.L.P.
	18	12		21	13	—	^(b)

^(a) Result for seventh seat was close, but on available figures Labor would have won five of the seven seats; with a little more cross-voting the result could have been 4—3.

^(b) Winner of seventh seat in Denison not ascertained, but would have been either White, A.L.P., or Johnson, Nat.

1934.

	A.L.P.	Nat.	Others	A.L.P.	Nat.	Others	Name, Party
Bass	3	3	—	4	3	—	Lamp, A.L.P.
Braddon	3	3	—	3	4	—	Wright, Nat.
Denison	3	3	—	4	3	—	Mahoney, A.L.P. ^(a)
Franklin	3	3	1	4	2	1	Frost, A.L.P.
Wilmot	3	3	1	3	4	1	Best, Nat.
	14	13	3	17	16	2	

^(a) Carruthers, an Independent elected without a quota as the sixth candidate under a six-member count, is not elected under the seven-member count; Mahoney, A.L.P., is elected instead.

1931

	A.L.P.	Nat.	Others	A.L.P.	Nat.	Others	Name, Party
Bass	2	4	—	3	4	—	Becker, A.L.P.
Braddon	2	4	—	2	4	1	Medwin, Ind. ^(a)
Denison	2	4	—	3	4	—	Cosgrove, A.L.P.
Franklin	2	3	1	3	3	2	Pearnell, Ind. ^(b)
Wilmot	2	4	—	2	5	—	Best, Nat.
	10	19	1	12	20	3	

^(a) Medwin, Ind., was runner-up under six-member count.

^(b) Pearnell, Ind., was runner-up under six-member count.

1928^(a)

	A.L.P.	Nat.	Others	A.L.P.	Nat.	Others	Name, Party
Bass	3	3	—	4	3	—	Davies, A.L.P.
Braddon	3	3	—	3	3	1	Whititt, Ind.
Denison	3	3	—	3	3	1	Mahoney, Ind. Labor.
Franklin	3	3	1	3	3	1	Sheridan, A.L.P.
Wilmot	3	3	—	4	3	—	Osborne, A.L.P.
	14	15	1	17	15	3	

^(a) For comment on 1928 election results, see text p. 18.

The practical demonstration of the effect of the seven-member quota on past elections, as seen in Tables VI. and VII., shows that the result is what one could expect as a consequence of the principles involved, namely, that the Opposition Party remains strong but that the Government generally has a better working majority.

Independents and Minor Party Candidates.

The use of the seven-member quota for the last ten elections since 1928 indicates that since 1934 there would have been no change in respect to the election of Independent or minor party candidates. In 1934, Mr. D. A. Carruthers, an Independent elected as the last candidate without a full quota, as noted in Table VII., would not have been elected under a seven-member quota. One Independent Labor candidate and one Independent in 1928 and two Independents in 1931 would have been elected as a consequence of the smaller seven-member quota. Of the 50 additional seats which would have been filled since 1928 if seven-member electorates had been used, the net gain by non-major party candidates would, therefore, have been four.

Part V.

OTHER CONSIDERATIONS.

HARE-CLARK IS IMPARTIAL POLITICALLY.

The Hare-Clark system is singularly neutral in its operation. All parties and all candidates are treated with scrupulous impartiality. Whether candidates are from the Government or the Opposition, or from a major party or a minor one, or standing as Independents, all must reach the same quota of votes in order to win.

Moreover, the fortunes of Hare-Clark have in the past been identified with both parties. It owes its very adoption to the determined efforts by the non-Labor political parties in Tasmania in face of strong Labor party opposition in 1906. When the Labor party first came to power under Premier John Earle in 1914, extensive, but unsuccessful, efforts were made to have Hare-Clark replaced by a party list system of proportional representation.

Since then Hare-Clark has been continued by both parties. In 1951 a Board of Enquiry on Parliamentary Deadlocks, appointed from outside Parliament and headed by Professor T. Hytten, Vice-Chancellor of the University of Tasmania, recommended the continuation of Hare-Clark, with a change to seven-member electorates. In 1954 a Bill providing for seven-member electorates was introduced by Mr. L. V. McPartlan, Independent member for Denison. It passed the House of Assembly with the support of the Government, but was lost in the Legislative Council. Last year the House of Assembly Select Committee on Electoral Reform (as noted elsewhere in this paper) emphatically re-endorsed the Hare-Clark system and urged the adoption of seven-member electorates.

The friends and foes of Hare-Clark have come from both parties. Although the present Labor party government is supporting the Hare-Clark system and recommending its improvement, the chief antagonist to the system is a Labor member, Dr. J. F. Gaha, M.H.A., who acknowledges that he has been "an implacable enemy of the Hare-Clark system for many years and has not changed his views" (a).

One of the most ardent supporters of Hare-Clark, on the other hand, has been Mr. J. G. Breheny, M.H.A., a Liberal party member. When many others were attacking Hare-Clark in 1955, Mr. Breheny expressed his convictions without equivocation: "In no circumstances will I support the proposal to abandon the fairest and most democratic electoral system in the world to revert to the malpractice, injustice, and anomalies inseparable from the single electoral system with which electors have been so painfully familiar in the Labor states of New South Wales and Queensland for more than a quarter century" (a).

In the same way that the Hare-Clark system is in itself impartial, so is the change from six to seven members per electorate. The plain fact is that the seventh seat in any electorate will go to whichever party polls the majority vote in that electorate. The winning of the five additional seats will, therefore, be decided strictly and solely by the electors within the respective five Commonwealth-State divisions. The "swinging" nature of all these divisions is shown in Table VIII. The margins between the two parties are close enough in all electorates for either party to consider that it has a good chance of winning 20-15 or 19-16 at the next election.

(a) From poll declaration speech reported in "The Mercury," Feb. 26, 1956.

On the basis of past returns and the known reliability of the Hare-Clark system, the pattern of the next election result can be foreseen with reasonable certainty: with a seven-member quota both parties can expect to win a minimum of three seats each, the fourth seat going to the larger party. In contrast, if 35 single-member electorates were used the outcome of the election could well depend not so much on the support given by the electors but on the distribution of the population in respect to boundary lines.

Seven-member Electorates could reduce Cost of Government.

A permanent continuation of 15 - 15 "dead heat" divisions of party representation can be expected on the basis of present voting trends. This condition not only causes electoral injustice (as explained elsewhere) but also promotes costly instability in government. The last State election, which would have been averted by seven-member electorates, cost £11,482 for minimum official administrative expenses alone. The expense of possible unnecessary elections resulting from six-member electorates could be greater even than the cost of salaries and expenses of five additional members.

Moreover, the stabilising of Parliament through elimination of 15 - 15 divisions in party representation could decrease materially the direct and indirect costs of government by making Parliament more effective. For example, the present even balance between the parties means that any one member in either party holds a potential balance-of-power influence over his party in Parliament. This interferes with the citizen's right, under the British tradition of responsible political parties, to expect parties to exercise responsibility collectively without undue influence by individual persons within the parties.

The small increase in House membership required for correcting the electoral machinery is more than warranted because of the increased work-load on Parliamentarians since the fixing of the present House membership over 50 years ago. As noted in Figure 1, the population of Tasmania has increased by more than two-thirds since 1907; with this increase in population has also come an even greater increase in the demands on members' time.

TABLE VIII.

Amount of "Swing" Required to Return Four Liberal Party Candidates in Each Electorate.

On Basis of Figures of October, 1956, General Election⁽¹⁾.

1. Votes for Major Parties on Electorate Basis⁽²⁾:

	Ben	Braddon	Denison	Franklin	Wilmet	Total
Labor	16,886	18,302	16,837	14,466	16,835	80,096
Liberal	14,292	14,814	14,317	12,781	13,203	69,477
	30,848	30,116	31,154	27,247	30,138	149,773

2. Labor Majorities:

2,264 468 2,520 1,815 3,532 10,619

3. Swing in Votes Required for Winning of Fourth Seat by Liberal⁽³⁾:

In Numbers	1,123	245	1,261	908	1,767	106,310
In Percentage	3.67	.81	4.05	3.22	5.87	3.66

⁽¹⁾ According to first preferences. Because of the extremely limited amount of cross-voting, the first preference figures are quite satisfactory for calculating the swing required.

⁽²⁾ The preferences of Independent and Anti-Communist Labor Party candidates, which were not large in any case, were shared between the two major parties in so nearly equal amounts that it was not considered necessary to make adjustments for them in ascertaining the amount of swing required. The sharing of non-major party preferences by the two major parties was in the Liberal's favor in Franklin by approximately 200 votes, and in Labor's favor in Denison by a similar amount. The Liberal gain in non-major party preferences in Braddon was approximately equal to Labor's gain from this source in Ben.

⁽³⁾ These calculations assume that no Independent nor minor party candidates will be elected. On the basis of the past two State elections this assumption is quite warranted.

⁽⁴⁾ This calculation on a State-wide basis shows the amount of swing required for the Liberals to win all of the five additional seats. For them to win all seats except Wilmet, where the Labor majority is largest, would require a smaller swing.

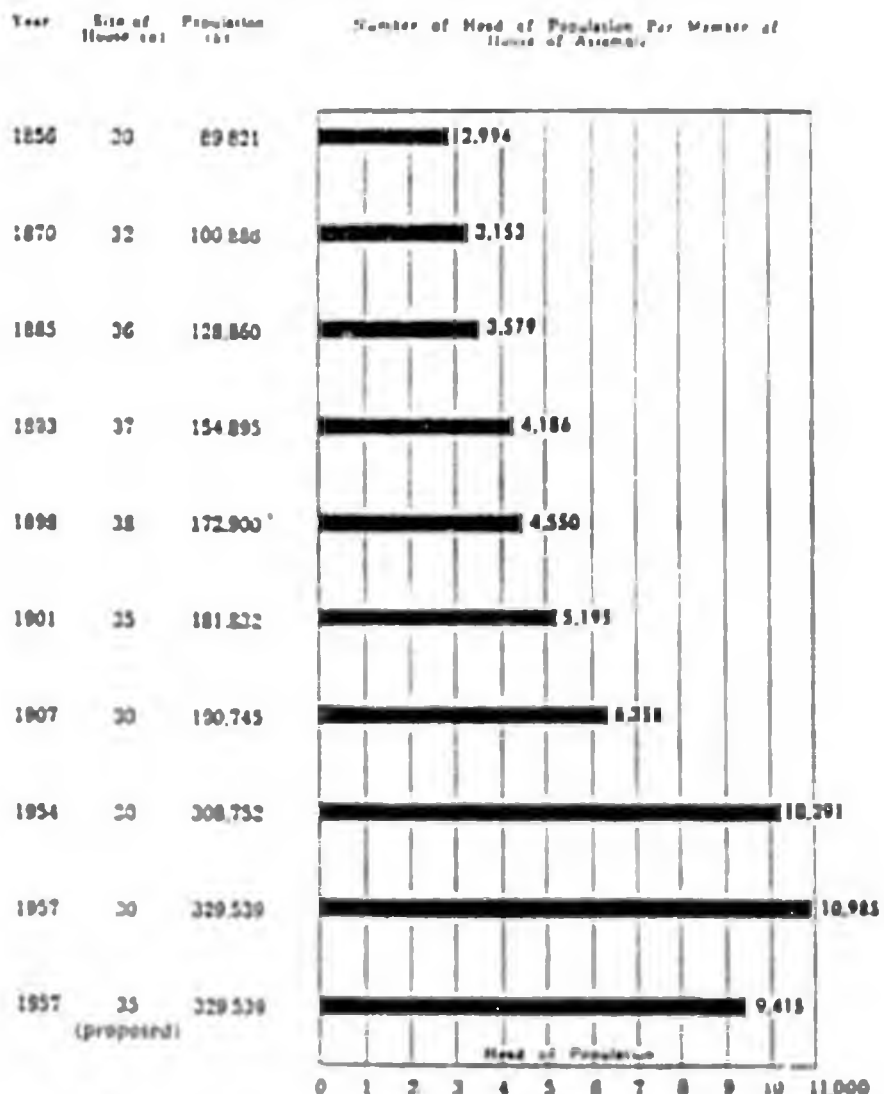
Governmental services and activities hardly thought of 50 years ago are taken for granted now. Indications of the increase in governmental activity can be seen in the rise in expenditure and in the size of the public service. In 1907 annual appropriations by the Tasmanian State Government were £912,000; for 1957-58 £21,900,000 (a). In 1913 there were 376 permanent officers employed under the Public Service Act; as of March 1958 the number of corresponding employees is 2,326 (a)—more than a six-fold increase. These figures on public service employees do not include the large number of persons not covered by the Public Service Act, such as employees of the Hydro-Electric Commission, Metropolitan Transport Trust, the Railways and others. Expansion of the work in these areas represents a similar increase in the number of employees.

There is no question that the enlargement of government activity has been enormous and has placed correspondingly larger responsibilities on members of Parliament. At present there are not enough of them available for the proper study of public questions, which become increasingly specialised as years go by. Moreover, there are not enough members to offer satisfactory competition for appointment to Cabinet; now it is almost a matter of putting every available person into a job.

(a) Figures supplied by the State Treasury Department, Hobart.

FIGURE 1.

Comparison of Sizes of House of Assembly, Tasmania, at Various Stages of Development in Respect of Population, 1856-1957.

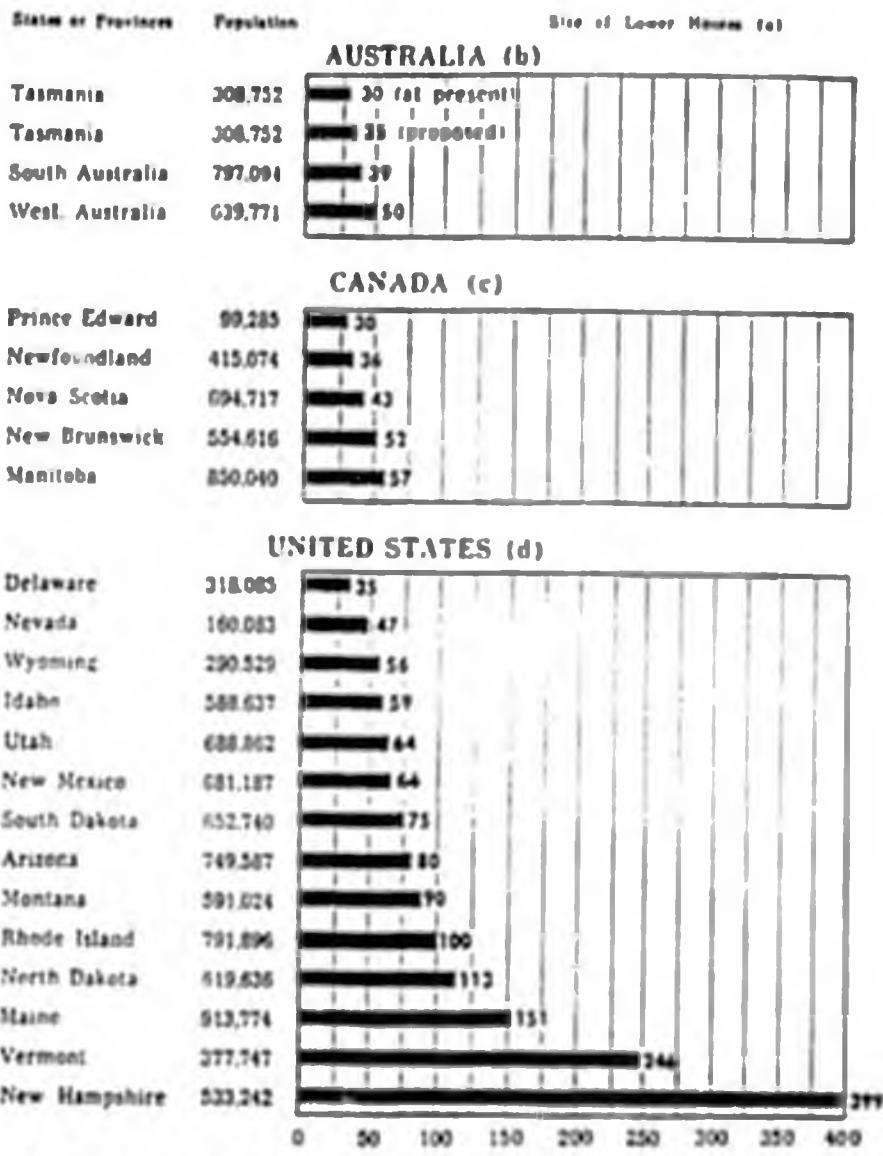


(a) Data on size of House for years 1856-1907 is taken from F. L. Fines, *Bibliography of Tasmanian Government*, Hobart, Government Printer, 1912, p. 41.
 (b) Populations for years 1856-1907 are given for the years cited on basis of 5-year averages for the quinquennium of which the designated year is a part. The population for 1957 is an estimate as of 30th September, 1957; this date is the most recent best date for comparison purposes. All population figures are from publications of the Commonwealth Bureau of Census and Statistics.

FIGURE 2.

Comparison of Sizes of Legislatures in the Leading English-Speaking Federations.

For States or Provinces with Populations under 1,000,000.



(a) Size of legislatures as per *Statesman's Year-Book*, 1907.
 (b) Population of last census, 1904, as published by the Commonwealth Bureau of Census and Statistics.
 (c) Population as of last census, 1926, as noted on p. 641, *Statesman's Year-Book*, 1907.
 (d) Population as of last census, 1926, as noted in *The World Almanac*, 1928.

The fact that the proper working of Parliamentary government requires a certain minimum number of members was pointed out as long ago as 1914 by Mr. R. M. Johnston, I.S.O., Government Statistician, in giving evidence to a Select Committee considering electoral changes. To quote Mr. Johnston: "Five sevens would be better than 31. The number of representatives of any State, however small the population, should never fall below a practical working minimum number. Theoretically there ought to be not less than 35 representatives, even in a small State like this. The question of economy should not be a difficult matter" (e).

Even in 1906 when the question of adopting the Hare-Clark system was being debated in the House of Assembly, there was criticism of the proposed move for reducing the membership of the House, then 35, to the present 30. In opposing this move, "The Mercury" stated in an editorial of September 26, 1906: "The saving in annual expenditure would be trifling, and there is no reason to believe that among the smaller number would be found a greater aggregate of wisdom. Moreover, with

A Useful reference.

Copyright © 1989 by Yale University.

All rights reserved.

This book may not be reproduced,
in whole or in part,
including illustrations,
in any form beyond that copying permitted
by Sections 107 and 108
of the U.S. Copyright Law
and except by reviewers for the public press,
without written permission from the publishers.

Set in Times Roman type by
Keystone Typesetting, Inc., Orwigsburg, Pennsylvania.
Printed in the United States of America
by Vail-Ballou Press, Binghamton, New York.

Library of Congress Cataloging-in-Publication Data

Taagepera, Rein.

Seats and votes.

Bibliography: p.

Includes index.

1. Elections. 2. Proportional representation.

I. Shugart, Matthew Soberg, 1960- II. Title.

JF1001 T33 1989 324 6 88-26088

ISBN 0-300-04319-8

The paper in this book meets the guidelines for
permanence and durability of the Committee on
Production Guidelines for Book Longevity of the
Council on Library Resources.

10 9 8 7 6 5 4 3 2 1

327

DEMOCRACY AND ELECTIONS

*Electoral systems and their
political consequences*

edited by

VERNON BOGDANOR

Fellow of Brasenose College, Oxford

and

DAVID BUTLER

Fellow of Nuffield College, Oxford

CAMBRIDGE UNIVERSITY PRESS

Cambridge

London New York New Rochelle

Melbourne Sydney

Table 5. The tendency of plurality systems toward majority party government

Country	Number of parties winning ^a		Largest party's % share ^a		Largest party wins	
	1% plus vote	Any seats in Parliament	Vote	Seats	Half vote	Half seats
					(% postwar elections)	
Australia	4	3	46 ^b	59 ^b	7	118 ^c
Britain	4	9	44	53	0	41
Canada	5	3	44	52	8	54
France (Fifth Republic)	7	6	38	56	0	28
Japan	6	6	48	56	20	53
New Zealand	3	3	39 ^c	51 ^c	23	117

^a At latest election.

^b Liberal-Country coalition here treated as a single party.

^c Figures for National Party, first in seats but second in votes.

Source: Calculated from Mackie and Rose, *International Almanac*.

for the French Socialists, which also won 56% of seats. In five of the six countries, one party usually wins a majority of seats, and in Australia and New Zealand, this has happened at every general election since the war. In no country is it normal for one party to win as much as half the vote. Moreover, the tendency of plurality systems to manufacture a single-party majority government is really strong only in the cricket playing parts of the Commonwealth. It does not apply regularly in Canada, in Japan or France. In the Fifth French Republic, with at least four parties likely to take a sixth or more of the vote, no overall majority has been usual, an outcome that could become familiar in Britain too, if the Liberal and Social Democratic Party Alliance establishes itself as a significant third force.¹⁵

V. CONVERTING VOTES TO SEATS: PROPORTIONAL REPRESENTATION SYSTEMS

In proportional representation electoral systems, a general election is principally a means of representing popular preferences. An election is meant to produce as close as possible a match between a party's share of the vote and its share of representation in the national Parliament. The election is an end in itself, and not, as in plurality systems, a means to the end of forming a single-party government.

Because the electorate rarely gives any party half its vote under any system, an invariable consequence of proportional representation is the maintenance of a multi-party (that is more than two-party) system. In the seven PR systems

Table 6. The distribution of seats by party in proportional representation elections

Parties winning seats	% Seats won by			
	Largest party	Two largest	Three largest	Four largest
Belgium	33	20	37	51
Denmark	9	34	49	61
Germany	3	45	89	100
Ireland	6	47	86	95
Italy	12	41	73	88
Luxembourg	6	41	66	90
Netherlands	10	32	61	79

Source: Mackie and Rose, *International Almanac*.

of the European Community, an average of eight parties win at least one seat in Parliament (Table 6). By contrast, in the six plurality systems, the norm is representation by five parties, with two much larger than the rest (Table 5).

Proportional representation is likely to create a multiplicity of winners and losers in a general election, for with half a dozen to a dozen parties competing for seats, several are likely to have their total vote rise and several have their vote fall. Nor can a single winner take control of government when no party wins a majority and, especially, when the largest single party wins less than a third of the vote, as happens, say, in Belgium or the Netherlands. The extent to which parties dominate representation is very variable between proportional representation systems (Table 6). The largest party can win anything from 20% to 47% of the seats; together the two largest parties can take anything from 37% to 89% of the seats. PR by itself does not determine the number of parties in a national Parliament. It simply encourages more parties than do plurality systems, and tends to be biased against (but does not necessarily preclude) the emergence of one or two large parties.

Proportional representation systems require the election of MPs from multi-member constituencies.¹⁶ Only if two or more representatives are returned can the minority as well as the majority be sure of a parliamentary voice. But the division of a country into constituencies varies greatly within the European Community (Table 7). At one extreme, the Netherlands treats the whole nation of 9.9 million electors as a single constituency electing all members of the 150-seat Tweede Kamer. But every other Western country using proportional representation except Israel divides the country into a multiplicity of constituencies. The resulting constituencies can be very large, containing more than a million voters.

The basic rule is: the more MPs returned from a constituency, the greater the

Table 7 Constituencies in proportional representation systems

	Total seats	N constituencies	Seats per constituency		Average electors per constituency
			Average	Range	
Belgium	212	30	7	5-48	229(00)
Denmark	175	18	10	2-40	207(00)
Germany					
a) Direct	218	248	1	0	174(00)
b) PR	218	1	218	0	43(00)(00)
Ireland	166	41	4	1-5	55(00)
Italy	630	31	20	1-35	130(000)
Luxembourg	59	4	15	6-24	51(00)
Netherlands	150	1	150	0	924(000)

Sources: Mackie and Rose, *International Almanac*, Inter-Parliamentary Union, 1976, table 9

Degree of proportionality. If the quota for election is the total number of votes cast divided by the number of seats in a constituency plus one, then in a constituency with two members, a third of the vote is needed to win a seat; with three members a quarter of the vote; with four members, a fifth of the vote, and so on. In a constituency with ten members, a party can win a seat with less than a tenth of the vote. The number of members elected by a constituency sets the threshold of votes a party must obtain to be sure of a seat in a PR system. In European Community nations, the tendency is to have relatively large constituencies (Table 7). The median country is Luxembourg, where the average constituency elects fifteen MPs.

The size of a constituency is determined primarily by the distribution of population within a country. No country with proportional representation divides the country into constituencies of equal size. Sparsely populated areas receive fewer representatives. Historic boundaries of provinces, regions or cities are usually respected, and as population varies between these (e.g., in Germany by a factor of 1:24 between Bremen and North Rhine-Westphalia) the number of representatives for a given multi-member constituency will also vary. Two consequences follow. There is no best or right number of representatives in a multi-member PR district. Furthermore, there is no maximum size for the number of electors in a constituency. Differences in size between constituencies within a given nation are likely to be greater than differences in the average size of constituency between nations. In Denmark, the number of MPs per constituency ranges from two to forty, in Belgium from five to forty-eight, and in Italy from one to thirty-five.

In allocating seats within a constituency, the first requirement is to establish

a quota, that is, the minimum number of votes a party requires to be sure of winning a seat. The quota can be calculated by the Hare, Droop, Hagenbach-Bischoff or Imperiali method. After determining the electoral quota for a multi-member constituency, the next step is to allocate seats according to parties, by the largest remainder, the highest average d'Hondt or the Sainte-Lagué formula (see Glossary).

The system for allocating seats according to votes affects the minimum number of votes a party needs to secure representation, and the maximum number of 'wasted votes'.¹⁷ Proportional representation systems vary according to their formula for allocating seats to parties, and also according to the distribution of votes among parties in a given constituency.¹⁸ The possible differences can be explored mathematically, and examples produced of anomalies under extreme assumptions about the number of parties competing, the number of seats to be allocated in a constituency and the particular distribution of votes. Yet the nuances differentiating the largest remainder, d'Hondt, and Sainte-Lagué systems should not obscure their basic common feature: the tendency to approach proportionality in the distribution of seats.

Nearly every proportional electoral system sets a *threshold*, the minimum number of votes (and the constituency concentration of that vote) a party must have to be sure of gaining a seat. In a constituency with only a few seats, this threshold will be high. In a three-seat constituency, for example, a party must win at least a third of the vote to be sure of achieving a Hare quota, and more than a quarter of the vote to be sure of achieving a Droop quota. In a large constituency, say with twenty seats, the threshold is low: a party must win only 4% to be sure of a seat with a Hare quota, and with a Droop quota it can win a seat with slightly less than 4%. The problem of large remainders or 'wasted votes' in a constituency (that is, votes insufficient to win a seat) is common to every proportional representation system.

A great variety of methods can be found to deal with the risk of 'wasted' votes. At one extreme is the Irish system, which has small constituencies and no provision for wasted votes. A party failing to win a seat in a constituency cannot transfer its votes for use elsewhere in allocating seats. With a maximum of five seats per constituency and some three-seat constituencies, this tends to make the Irish system more disproportional: a party that polls about 10% of the vote could theoretically find itself with no representation, according to the dispersion of the vote among constituencies. At the other extreme, the Dutch system has only one very large national constituency and requires no provision for wasted votes. The minimum vote needed to win a seat in the 150-member Tweede Kamer is very low, 0.67%. In an electoral system such as the Dutch, the threshold could only be lowered further by increasing the size of the national assembly. In Luxembourg, seats are also allocated only within constituencies, but as an average of 15 seats are to be won in a constituency, the threshold a party must clear to be

sure of winning a seat by the Hagenbach-Bischoff quota is usually not high.

The majority of proportional representation systems in the European Community make some positive provision for topping up representation by creating a national level constituency to pool 'wasted' votes, that is, votes that did not win a seat in a given constituency allocation. Arrangements vary from country to country. The norm is to have relatively large electoral districts, and to have a second-stage pool to top up representation for the smaller parties, thus reducing wasted votes and increasing the overall proportionality of the system.

In Italy there is a bias toward exact proportionality arising from the very large constituencies and the Imperiali quota. Parties having wasted votes there have their votes pooled nationally, provided that they have already won at least one seat and 300,000 votes nationwide. The seats not distributed by constituency quotas are then distributed from the national pool, thus reducing the proportion of wasted votes. In Denmark, 40 of the 175 seats in the Folketing are distributed by a similar national topping up system for all parties meeting low minimum standards of popular support. In Belgium, there is provision for transferring votes wasted at the constituency stage to a provincial pool, where seats can be allocated to individual parties or combinations (*apparentement*) formed by groups of parties to avoid wasting individual remainders.

Germany has a unique system of topping up representation, for half the Bundestag is elected by proportional representation and half by single-member districts. To qualify for the distribution of proportional representation seats, a party must win at least 5% of the total national vote or victory in at least three *Wahlkreis* (constituencies). The barrier was set at this height to prevent representation of extremist parties, and to prevent the proliferation of small parties, both considered problems fostered by the Weimar electoral system. The distribution of seats at the *Wahlkreis* level is usually disproportional, because it is done by simple plurality. For example, in 1972 the Social Democratic Party (SPD) won 46% of the vote and 61% of the constituency seats, whereas in 1976, when its vote dropped by 3%, its share of constituency seats dropped almost 15%.¹⁸ The award of half the seats by PR compensates effectively for the disproportionality of the plurality distribution. In 1972, for example, the SPD received only 31% of the seats in the PR distribution, because it had done disproportionately well in the constituency contests. In 1976 its share of seats in the PR distribution rose by 9%, because its success at the constituency level had fallen. The Free Democratic Party does disproportionately well in the PR distribution, taking 15.7% of seats. Since 1961 it has won from 5.8 to 12.8% of the vote but has not won a single constituency seat in six elections.

The final stage in a proportional representation system is the allocation of seats to particular candidates, who then become the Members of Parliament. Logically, there are two alternatives: an elector may be asked to vote for a

party, which lists the order in which its candidates should be elected, or an elector may vote for a candidate, with votes cast for all the candidates of a party pooled to establish its number of seats, and seats allocated to their candidates who secure the most votes as individuals. The use of pure alternatives is relatively rare. Germany is the only member of the European Community that uses the strict party list, but a voter can also express a preference for individual candidates at the *Wahlkreis* level. Israel and Spain also use the strict party list. At the other extreme, in Ireland (see below) an elector can only vote for individual candidates. In Italy, the parties give no indication of the rank order in which candidates should be elected; this is determined by those who vote for the party's list. The candidates elected reflect the preference votes that individual candidates of the party secure votes additional to the vote for the party list.

Most proportional representation systems make some allowance for an elector to express a preference between candidates of a given party, as well as allowing each party to indicate the order in which it wishes its candidates elected. The ranking of candidates has an important effect upon a party's representation (and upon the influence of those doing the ranking upon their representatives), for the top person on a list is normally certain of election, and the bottom person normally certain of defeat. The usual procedure is to ask a voter to indicate a party preference, and also to allow the voter to vary the party's rank ordering of candidates, if the voter so wishes.

The Irish electoral system is best discussed on its own (see chapter 9). Its most distinctive feature is that it makes voters express a choice for individual candidates rather than party lists. In practice, there is a strong tendency for voters to confine preferences within their first choice party, and to put the top candidate of their second party below the bottom candidate of their first party. But the relationship is not exact, and control of government has turned on the extent to which transfers have been regular, especially when Fine Gael and Labour have run in coalition. The practical political effect of STV PR is to weaken party discipline, because the winning candidates are not beholden to the party for a high position on the party list. To win a seat a successful candidate normally must defeat another member of his own party. For example, in a constituency in which a party hopes to win two seats it will nominate three candidates, who then compete against each other. The Irish ballot thus combines elements of an American-style primary election with a general election.

The empirical significance of different choices between electoral systems is easily exaggerated by looking only at their theoretical differences. Particular elements of a system tending to increase or reduce proportionality may be cancelled out by devices having the opposite effect. Moreover, plurality systems distort but do not negate the preferences of electors. There remains a correlation between a party's share of the vote and its share of the seats.

The difference in proportionality between the median election under proportional representation and plurality systems is very limited: 7% (Table 8). The median Western countries with proportional representation are Finland and Italy, where the distribution of seats is 95% proportional to votes. The median plurality system country is Australia, where the distribution of seats is 87% proportional to votes.

Notwithstanding the common intent of proportional representation systems, there is a considerable difference in the degree of proportionality actually achieved currently. The most proportional system is Austria, which matches seats and votes to within 1%. The least proportional is Spain, which deviates by 17% from pure proportionality, and Greece, which deviates by 12%. A major reason for this is that the two countries tend to return a small number of MPs per constituency, five on average in Greece and six in Spain, the smallest among the seventeen countries reviewed here except for Ireland. Moreover Spain has an unusually fragmented party system because of regionalist political pressures, and in Greece high thresholds for winning seats significantly reduce the actual proportionality at several stages. The range of proportionality is also substantial among plurality systems. Elections to the 1980 United States Congress have been within 6% of proportionality, whereas in France the election of the 1981 National Assembly deviated by 21% from pure proportionality.

While ideal-type systems can be delineated for purposes of exposition, it is not meaningful to select any one country as typical of a proportional representation or a plurality system. The specifics of a nation's history, social structure and political culture will also affect how an electoral system is used by parties and by the electorate, and thus what it produces.

The effective difference between representation in proportional representation and plurality systems is a matter of degree, not kind. On average, the seventeen PR systems examined are 8% more proportional than the seven plurality systems. The most proportional PR system, Austria, is 20% more proportional than the French plurality system but only 5% more proportional than the most proportional plurality system, the United States Congress. The departure of every electoral system from pure proportionality is not surprising. It is a condition of allowing free access to the ballot that many parties will lose an election, and some will fail to gain any representation at all. What is most noteworthy is the general tendency of all electoral systems to allocate representation in Parliament in keeping with the broad distribution of the popular vote.

VI. ASSESSING ELECTORAL SYSTEMS

Electoral rules cannot be assessed independently of political criteria and values. This is most obviously the case in deciding about an acceptable level of

Table 8. Comparing the proportionality of PR and plurality systems

	Index of proportionality
<i>PR systems</i>	
Austria	99
Germany	98
Sweden	98
Denmark	97
Iceland	96
Ireland	96
Netherlands	96
Switzerland	96
Finland	95
Italy	95
Israel	94
Portugal	93
Belgium	91
Norway	91
Luxembourg	90
Greece	88
Spain	83
<i>Plurality systems</i>	
United States (House, 1980)	94
Japan	91
Canada	88
Australia	87
Britain	85
New Zealand	80
France	79

Note: The index of proportionality is calculated as the sum of the differences between each party's share of seats and its share of votes, divided by two and subtracted from 100.

Source: Mackie and Rose, *International Almanac*, table A. 5.

proportionality in an electoral system. No one would defend a system that consistently gave the most seats in Parliament to parties with the least votes. On the other hand, even a Parliament elected by nationwide proportional representation leaves some parties without any representation. In the case of the Netherlands in 1981, three parties with 20% of the vote, notionally worth three seats, won nothing. Whether the proportionality of a PR or a plurality system is enough depends upon the degree of perfectionism demanded, or imperfection deemed acceptable.

Insofar as elections are viewed as a means to the end of constituting government, which is *prima facie* an object as important as representation, then judgements about electoral systems become subordinate to judgements about the most desirable way of constituting government. A simple plurality system is most likely to manufacture a majority for one party. But most European societies cannot have their political cleavages reduced to a single bipolar choice. Parties divide along a multiplicity of lines: religion, territorial identity and language – as well as (or instead of) class.²⁰ Fixing responsibility upon a single governing party only creates competitive politics if the pendulum swings, that is, if the governing party is ejected from office from time to time. But this is *not* normally the case. Britain is atypical because its two parties usually alternate in office. In Western nations since 1945, single-party hegemony is the norm.²¹

Insofar as a choice of proportional representation or plurality electoral systems influences the likelihood of single-party or coalition government, an assessment of electoral systems can turn upon the consequences of different types of government. A coalition government is more subject to internal constraint, because the concurrence of its member parties is needed to maintain a coalition majority. But a very large party, with nearly half a nation's vote, is likely to be a coalition too. The Democratic and Republican Parties in the United States are extreme examples of large 'catch-all' parties. The evidence of disagreements within the Conservative and Labour Parties is a reminder that each is a coalition of groups with a variety of outlooks. Moreover, a party in government must deal with a coalition of disparate interests. There is 'something stronger than parties' that makes a governing party recognise the need to bargain with pressure groups of many kinds including supporters of their electoral opponents.²²

The problem of looking after minorities in a democracy based on majority rule cannot be resolved by electoral systems. By definition, in any reasonably fair electoral systems minorities must always lose. Only in a chronically fragmented society, such as the United States, can a minority hope to exercise persisting leverage as a potential partner in governing coalitions. Permanent minorities anxious to protect their rights must look to non-electoral constitutional guarantees, such as a federal structure, to accommodate diverse territorial groups or nations; concurring or 'more than majority' constitutional provisions for national decision-making; and justiciable rights resolved in a court that is *not* governed by an elected majority.²³

For the majority of politicians and the majority of voters, the decisions taken about electoral laws are important. They are constituent judgements, because they concern the very rules by which government is constituted, prior to decisions about particular issues of public policy. Immediate party or policy concerns can influence the rules chosen. But however transitory the reasons, once chosen, electoral rules tend to persist by their own inertia. These rules

apply in future circumstances that cannot be known at the moment of choice. Hence, the golden rule for politicians confronted with choices about electoral systems is to ask: *how would I like it if the rules were applied in circumstances unfavourable to me and my party as well as in favourable circumstances?* This principle of equity²⁴ is of fundamental importance, for in any system of free elections politicians who immediately benefit will still be asked to endorse the system, when the rules that once made them winners turn them into losers.

NOTES

An earlier draft of this chapter was presented at a Workshop on Electoral Law organised by the Centro de Estudios Constitucionales, Madrid, 25-26 February 1982. I am indebted to Thomas T. Mackie for many comments on the draft.

- 1 The tenth member of the European Community, Greece, is omitted, because it has not yet demonstrated continuity in elections.
- 2 The term 'Western nations' is used to refer to the twenty-one countries with well-established competitive electoral systems with full data reported in Thomas T. Mackie and Richard Rose, *The International Almanac of Electoral History*, 2nd edn (London, 1982): Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Sweden, Switzerland, the United Kingdom and the United States. When reference is made to an illustrative election result for a nation, it is the latest result as of 1 January 1982, unless otherwise stated.
- 3 Richard Rose and D. W. Urwin, *Regional Differentiation and Political Unity in Western Nations*, Sage Professional Papers in Contemporary Political Sociology 06-407 (London and Beverly Hills, 1975).
- 4 D. E. Butler and Austin Ranney, eds., *Referendums*, American Enterprise Institute (Washington, DC, 1978).
- 5 Stein Rokkan, *Citizen, Elections, Parties* (Oslo, 1970).
- 6 Dieter Nohlen, *Wahlssysteme der Welt* (Munich and Zurich, 1978), pp. 104.
- 7 G. Bingham Powell, 'Voting Turnout in Thirty Democracies: Partisan, Legal and Socio-Economic Influences', in R. Rose, ed., *Electoral Participation* (London and Beverly Hills, 1980), pp. 24-6.
- 8 In proportional representation systems, a government usually need not fear losing a seat at a by-election. When a seat falls vacant during the life of a Parliament, it is awarded to the next candidate in line on the list of the party that has just lost a member. Exceptionally, Ireland holds by-elections, with a single member elected by the alternative vote.
- 9 Richard Rose and Thomas T. Mackie, *Incumbency in Government: Liability or Asset?*, University of Strathclyde Studies in Public Policy, No. 50 (Glasgow, 1980), p. 10.
- 10 Inter-Parliamentary Union, *Parliaments of the World*, compiled by Valentine Herman with Françoise Mendel (London, 1976), Tables 5 and 6.
- 11 Inter-Parliamentary Union, *Parliaments of the World*, Tables 11-14, 17-18.
- 12 Furthermore, parties contesting an election usually receive significant subsidies in kind from broadcasting authorities, see Anthony Smith, 'Mass Communications', in D. E. Butler, H. R. Prinneman and Austin Ranney, eds., *Democracy at the Polls*,

Proportional representation

The Library-Parliament of Victoria

BACKGROUND PAPER

PS
909.09
f
BAC

D-02803

Proportional Representation :
summary of issues



Proportional representation (PR) is a system of voting which has the effect of allocating seats in the legislature to groups or individuals in proportion to the number of votes cast for them in the electorate. It differs from 'first past the post' and majority preferential systems in that in any electorate the winner does not take all, but receives instead only a proportionate amount of the prize. Consequently, PR involves multi-member constituencies, whether the constituency is the entire country as in the Israeli and Dutch systems, one state as in Australian Senate elections, or an electoral division returning several members as in the Tasmanian state parliament. As it is plainly impossible for one member to be split into several parts, each representing a group of voters, proportionality can only be achieved for two-member constituencies when each member has 50% of the vote, and proportional representation begins to be achieved in a three-member seat. The proportionality achieved increases with the size of the constituency, but the marginal increase in proportionality decreases with larger constituencies, so that advocates of PR often suggest that constituencies of between five and nine members are adequate¹.

There are two major types of PR, although it is possible to identify many variants of both. They are the 'single transferable vote' (STV) system, often also known as the 'quota-preferential method', and the list system, also referred to as the 'list proportional method' or the 'party list'. The Proportional Representation Society of Australia advocates the introduction of STV system in Australia, and prefers the term 'quota-preferential method'. Both methods are based on multi-member electorates and thus allow for the representation of all groups of voters.

Single Transferable Vote (STV)

The STV system originated in Europe in the 1850s before the growth of the political party system as we now understand it in European countries. Two variants of it were developed separately by C.C.G. Andrae, a Danish liberal politician, and Thomas Hare, a progressive English barrister. In 1861 John Stuart Mill incorporated the system into his book Representative Government.

The original intention of STV was to strengthen the position of the individual candidate and discourage tendencies towards the domination of legislatures by parties.

Its principle was and is that each voter has one vote no matter how many seats are to be filled in a multi-member constituency but that, rather than voting for only one candidate, the voter may rank the candidates so that 'unused' votes (i.e. votes surplus to the quota needed to elect a candidate) are not 'wasted' but instead go to the candidate whom the voter has ranked as his or her next preference. In this respect the STV system can be likened to a situation where there are repeated ballots, any candidate obtaining the required quota is elected, and the ballot continues among the remaining candidates until each voter has used her or his one vote. There are many apparent similarities between the STV method and the majority preferential method, but the fundamental difference is that STV requires multi-member electorates.

In STV the term 'quota' has a specific meaning. It refers to the Droop quota, by which seats are allocated.

$$\text{Droop quota} = \frac{v}{s+1}$$

where v = total vote in a constituency
 s = number of seats to be allocated.

If five seats are to be allocated on an electorate with 60,000 voters, the quota is calculated as follows:

$$\begin{aligned} \text{Droop quota} &= \frac{60,000}{5+1} \\ &= \frac{60,000}{6} \\ &= 10,000 \end{aligned}$$

The stages of counting of votes under STV are as follows:

1. Candidates who have obtained one Droop quota on their first preferences are declared elected.

2. The ballots of the candidates already elected are sorted and counted according to second preference. As the intention is now to give surplus votes to candidates still not elected, a decision must be made on which votes are declared to be surplus and which already used. Rather than doing this randomly, second preferences are 'discounted' by giving them to the receiving unelected, candidates in proportion to the elected candidate's surplus. The second preferences are multiplied by the formula:

$$\frac{\text{total vote for elected candidate} - \text{Droop quota}}{\text{total vote for elected candidate}}$$

which equals:

$$\frac{\text{elected candidate surplus}}{\text{total vote for elected candidate}}$$

The preferences awarded to another candidate are then computed by multiplying the above figure by the number of second preferences for the unelected candidates.

3. The discounted second preferences are added to first preferences for all non-elected candidates and any who now have a Droop quota are declared elected.
4. The candidate with the fewest number of votes at this stage is now declared defeated and his or her ballots are sorted and counted according to second preferences. The second preferences are not discounted, as there is no decision to be made on which are surplus, but are simply distributed among the remaining unelected candidates.
5. Candidates now holding a Droop quota are declared elected. Their ballots and those of candidates declared elected at the third stage are sorted and their preferences are distributed using the discounting formula described above.
6. This cycle continues taking in progressively lower preference levels until all the seats have been filled.

The Tasmanian House of Assembly has been elected by a variety of the STV system known as the Hare-Clark method since 1907. Tasmania is divided into five electorates, identical for both state and federal purposes, each of which returns seven members to the state parliament. Voters must vote for a minimum of three candidates to cast a valid vote. There have been various changes to the system since its introduction but the principle has remained unchanged.

List Systems

List systems were developed in Europe in the late nineteenth century and were adopted in many of the northern European democracies. They were especially appropriate in countries with ethnic, language or religious divisions where a system of majority voting could result in violent oscillations between parties. List systems work on the principle that the voter votes for a party rather than an individual. Every vote cast for any candidate is automatically added to the total for the list on which the candidate's name appears. List systems usually have larger electorates than STV systems. As with the STV system, quotas are used to determine the allocation of seats. The two formulas most often used are the d'Hondt formula and the formula of the largest remainder.

Under the d'Hondt formula (sometimes also referred to as FR by the highest average) seats are allocated one by one and each goes to the party (or list) which would have the highest number of votes per seat if it received the seat in question. The formula used for calculating the d'Hondt quota is :

$$\text{D'Hondt quota} = \frac{v}{s + 1}$$

where v = the party's total vote

s = number of seats already held by the party.

Each time a seat is to be allocated quotas or averages are calculated for each party using the above formula and the seat goes to the party with the highest average. Since initially no party has any seat the divisor of the d'Hondt formula ($s + 1$) is for each party and the 'averages' are the parties' original totals. When a seat has been awarded the divisor for the party which has won it becomes 2, while for the other parties it remains 1. If the total votes for each of four parties is:

A	8,700
B	6,800
C	5,200
D	3,300

then on the first allocation A has the highest average (8,700) and wins the seat. The divisor of the formula as applied to A then becomes 2, but remains 1 for the other parties, and B wins the seat, as illustrated below:

Party	Total Votes	Divisor	Average
A	8,700	2	4,350
B	6,800	1	6,800
C	5,200	1	5,200
D	3,300	1	3,300

This procedure is then repeated until all the seats have been allocated. In the end A and B will have two seats each, C will have one, and D none. Thus the divisor varies with the success of a party. In general the d'Hondt formula tends to benefit larger parties.

In using the formula of the largest remainder an electoral quota is calculated by dividing the total number of votes cast by the number of seats to be filled. Each party (or list) then receives as many seats as it has quotas and the remaining seats are distributed according to which party has the largest number of votes remaining. The party with the largest remainder gets the next seat, the party with the next largest remainder gets the seat after that and so on until all the seats are distributed.

Using the same figures as the previous example, where total votes are 24,000, and five seats are to be allocated the electoral quota is:

$$\begin{aligned} \frac{\text{total_votes}}{\text{number of seats}} &= \frac{24,000}{5} \\ &= 4,800 \end{aligned}$$

The rest of the calculation is as follows:

List	Votes (V)	Seats (S) won by Quota (Q)	(S x Q)	Remainder V-(S x Q)
A	8,700	1	4,800	3,900
B	6,800	1	4,800	2,000
C	5,200	1	4,800	400
D	3,300	0	-----	3,300

A has the largest remainder and wins a second seat, and D wins the last seat because it has the second largest remainder. In the end, A has two seats and the other parties one each. In general, the use of this formula tends to benefit smaller parties.

DISCUSSED

There are many variations in PR systems, and various systems can be used in combination with each other and with other voting systems such as preferential or first-past-the-post. The distinction between STV and list systems is, however, an extremely important one because the whole intention of STV is that the voters vote for the individual candidates and are able to give their first preferences to one party and their second preferences to another, or to independents, while the chances of candidates being elected on list systems are largely determined by their party affiliation. Essentially list systems pre-suppose party political organisations, while STV does not.

Both supporters and opponents of PR tend to see it in isolation from the society in which it operates and advance the same arguments to support and oppose it. It is quite possible to produce a list of arguments for and against PR as a voting system, and such a list appears in this section. The question of whether one sees those results and arguments as supporting or opposing PR, however, depends largely on what one sees as a desirable political system. For instance, it is commonly suggested that the application of PR results in a decrease in the power and importance of political parties, and an increase in the number of small single-issue parties. For many people, particularly those accustomed to the system of two party government common to English speaking countries and derived from the English system, this possibility is a black mark against PR. However an individual accustomed to a different system where a multiplicity of small parties is normal, as in many European countries, would not see this as a disadvantage.

In addition, voters in countries such as Australia and Great Britain are increasingly seeing small parties as a desirable vehicle for expressing their disillusion with the major parties - witness the rise of the Australian Democrats and the Nuclear Disarmament Party in Australia and the Social Democratic Party in Britain.

Although what follows is a list of arguments for and against PR, the same argument will often be found as both a reason for and a reason against. Perhaps a good way to look at the arguments is in terms of a set of criteria which condition the way anyone is likely to see any aspect of result of PR.

1. The individual perspective - the voter and the politician may well have different views on what makes a good electoral system, the politician perhaps placing more emphasis on stability.
2. The historical development and background of the country's political system, including adversary system, rather than consensual or coalition systems, has been seen as normal within parliament.

- 3 The extent of homogeneity or heterogeneity in the society and thus the extent to which a 'winner takes all' system inevitably implies defeat for an ethnic, religious or economic group and its subsequent exclusion from it.

ARGUMENTS FOR PR

1. PR allows the views of all voters to be represented in the legislature in proportion to their numbers in the community. This ensures that minority groups are not alienated from the political process by a continual exclusion from representation. In an STV system it is even possible for dissident members of a political party to stand against other members of the same party, thus allowing various points of view within the party to be expressed.
2. Although women are not a minority group, they are under-represented in politics. The introduction of PR could improve this situation by removing some of the risks perceived by political parties in endorsing women. It can be argued that in a situation where several candidates are to be elected a woman is more likely to be endorsed because she will not be the only candidate for the party and the party will not therefore lose the votes of voters prejudiced against women. This argument could also apply to ethnic or religious groups.
3. One consequence of a 'winner take all' system where one of two major parties wins control of the legislature is that political business is conducted in the adversary style. All votes are won or lost on party lines, any piece of legislation introduced by the government will pass regardless of any possible reservations by government members, and the opposition has little constructive role. In a PR system there is opportunity for a more consensual, flexible and pragmatic style of government which moves away from the black and white simplifications of the adversary system.

4. In a PR system there is usually a greater continuity of policy from government to government because of the more consensual nature of government under PR described above. Changes of policy occur gradually and are thought out in advance rather than being the result of great swings in political opinion.
5. Under PR it is easy for new parties to be formed in response to issues and win some seats in the legislature. Then, if the issue fades away, the party may also fade away because it has not been institutionalised. This point is particularly valid in an STV system, where campaigns tend to be organised at the constituency level.
6. Governments would be based on the support of at least 50% of the voters, whether that 50% has been for one party or for several which have formed a coalition.
7. Party policies would be more moderate because extreme groups in any one party would not be able to exercise pressure over the rest of the party as they can do when governments are based on one majority party. In fact policies would tend to be more moderate because of the necessity for parties to form coalitions.
8. With PR, the need for greater co-operation between parties in the legislature would result in the legislature participating more in policy making.

ARGUMENTS AGAINST PR

1. One of the necessary conditions for PR is that constituencies are larger than in other systems, and this may result in a reduction in personal contact between members and their constituents. Not only will the constituency be larger, but the constituency could result in voters feeling distanced from their representatives.

2. Because PR systems are fairly complicated compared to first-past-the-post or preferential systems voters may have trouble in understanding how the system works, take less interest in governments and generally develop feelings of alienation. This may also result in a high informal vote where voting is compulsory or a low turn-out where it is not compulsory.
3. The PR system encourages the splitting of big parties into many small ones representing sectional interests. This has two negative effects. It becomes more difficult to form governments because small groups have their own representation, and it creates and sustains divisions between different groups and classes in society, thus resulting in political and social instability.
4. Under PR the distinction between government and opposition is blurred, so that there is not a government with unambiguous power to carry out its program and an opposition to act as a constant critic of the government. This creates a weak and unstable government.
5. With STV, although not necessarily with the list system, the counting of votes is often long and exhaustive and there is considerable delay in getting an election result.
6. With STV, there may be problems if the death or resignation of a member results in the need for a by-election.
7. Conclusion

Arguments for or against the introduction of PR should not be seen in isolation from the political system into which such reforms would be introduced. Very often such arguments are inseparable from assumptions about the structure and goals of the political system.

1. J.F.H. Wright. Mirror of the nation's mind : Australia's electoral experiments. Sydney, Hale & Iremonger, 1980, pp. 148-151.

Enid Lakeman. How democracies vote. 3rd ed. London, Faber and Faber, 1970, pp. 120-123.

2. Adapted from
Brian Wilson. Proportional representation : a viable alternative? Public sector vol. 4., nos. 2/3, p. 14-16.
3. Adapted from
W.J.M. Mackenzie. Free elections : an elementary text book. London, George Allen & Unwin, 1958, pp. 77-80.

FURTHER READING

- Bogdanor, Vernon. What is proportional representation? a guide to the issues. Oxford, Martin Robertson, 198
- Carstairs, Andrew McLaren. A short history of electoral system in Western Europe. London, George Allen & Unwin, 1980
- Finer, Herman. Theory and practice of modern government. Revised ed. Westport, Connecticut, Greenwood Press, 1949.
- Finer, S.E. (ed) Adversary politics and electoral reform. London. Anthony Wigram, 1975.
- Grigg, Kenneth. The value of the voter. Australian quarterly vol: 53, no. 1, Autumn 1981: 40-55.
- Herr, R.A., with W.J. Hemmings and friends. Accountability and FR. Politics vol 10, no. 2, November 1975 216-220.
- Hoag, Clarence Gilbert, and George Hervey Hallett. Proportional representation. New York, Macmillan, 1926.
- Hughes, Rosaleen, and Phillip Whitenead. The case against proportional representation. In Electoral reform (Fabian tract 483, September 1982)
- Lakeman, Enid. How democracies vote: a study of majority and proportional electoral systems. London, Faber and Faber, 1955.
- Lakeman, Enid. Power to elect: the case for proportional representation. London. Heinemann, 1982.
- Mackenzie, W.J.M. Free elections: an elementary textbook. London, George Allen & Unwin, 1958.

O'Connell, Declan Proportional representation and intra-party competition in Tasmania and the Republic of Ireland. Journal of Commonwealth and Comparative Politics vol. 21, no. 1, March 1983: 45-70.

Rae, Douglas W. The political consequences of electoral law. Revised ed. New York, Yale University Press, 1971.

Seminar on Progress Towards Parliamentary Democracy in Western Australia, 22nd September 1984. Papers. Perth, 1984.

Taylor, F.J. and R.J. Johnston. Geography of elections. Harmondsworth, England, Penguin, 1979.

Townsley, W.M. The government of Tasmania. St. Lucia, Qld. University of Queensland Press, 1976.

Van Den Berg, G. Unity in diversity: a systematic critical analysis of all electoral systems. London, Batsford, 1955.

Wilson, Brian. Proportional representation: a viable alternative? Public Sector vol. 4, nos. 2/3, 1982: 13-22.

Wilson, Brian. Proportional representation: a viable alternative? Public Sector vol. 4, no. 4, 1982: 2-10.

Wright, J.F.H. Mirror of the nation's mind: Australia's electoral experiment. Sydney. Hale & Ironsinger, 1980.

APPENDIX

In August 1985 the Victorian Branch of the Proportional Representation Society of Australia presented a submission to the Victorian government arguing for the introduction of PR in elections for the Legislative Council. As part of its submission, the Society recalculated results for the 1985 Legislative Council election using STV, or the quota preferential method (its preferred term). Its calculations form this appendix.

PROPORTIONAL REPRESENTATION SOCIETY OF AUSTRALIA

QUOTA PREFERENTIAL ASSESSMENT OF LEGISLATIVE COUNCIL : FOUR 11-MEMBER REGIONS

PROVINCE	A.L.P.	LIB.	A.D.	N.P.	OTHER	TOTAL
Ballarat	49966	55702	8009			113677
Doutta Galla (3/4)	51615	29174				80789
Geelong	58009	45661	5604			109274
Melbourne West (3/4)	51172	23606	6616			81394
North Western	36168	32041		41144		109353
Western	30335	45393		34157		109885
REGION TOTALS	277265	231577	20229	75301		604372
QUOTAS (50365)	5.51	4.60	0.40	1.49		11.99
SEATS BY PR	[5]	[5]		[1]		
Central Highlands	46570	51045	5920		5763	109298
Chelsea (3/4)	41900	38379				80279
Eumemmerring (3/4)	46764	31385				78149
Gippsland	40785	31055	2649	27839	6620	108248
North Eastern	27239	23557		56159	3143	110098
South Eastern	45784	60266	7117			113167
REGION TOTALS	248342	235687	15686	83998	13526	599239
QUOTAS (49937)	4.98	4.72	0.31	1.68	0.31	11.99
SEATS BY PR	[5]	[4]		[2]		
Boronia	48531	51150	6831			106512
Chelsea (1/4)	13966	12792				26758
East Yarra	37766	63782	8490			110038
Eumemmerring (1/4)	15588	10461				26049
Higinbotham	45329	57733	7039			110101
Nunawading	50220	50554	8855			109659
Waverley	53713	45362	4200		6471	109746
REGION TOTALS	265113	291864	35415		6471	598863
QUOTAS (49906)	5.32	5.84	0.71		0.13	11.99
SEATS BY PR	[5]	[5]	[1]			
Doutta Galla (1/4)	17205	9724				26929
Jika Jika	73242	34690				107932
Melbourne	65653	31621	6560			103834
Melbourne North	71366	34135				105501
Melbourne West (1/4)	17057	7868	2205			27130
Monash	48071	51526	6033			105630
Templestowe	45433	53726	8917			108076
REGION TOTALS	338027	223290	23715			585032
QUOTAS (46753)	6.94	4.57	0.49			11.99
SEATS BY PR	[7]	[4]				
COUNCIL TOTALS	1128747*	982418*	95045*	159299*	21997*	2387506
PERCENTAGE VOTE	47.22	41.12	4.02	6.72	0.92	100
PROPORTIONAL SEATS	20.2	18.1	1.9	2.9	0.4	44
SEATS BY PR	[22]	[18]	[1]	[3]		44
SEATS ACTUALLY WON	[23]	[15]		[6]		44

Note largest quota is 1.32 above mean, smallest is 2% below mean quota. With multi-member Provinces 44 quotas of 50,000 elect a representative. Contrast with existing single member system where only half that number elected a representative.

ATTACHMENT 1 - A SAMPLE BUCHANAN APPLICATION BALLOT PAPER

Sample Ballot Paper District: Belconnen

<i>Residents Rally</i>	<i>Independent</i>	<i>Labor</i>	<i>Liberal</i>	<i>Democrats</i>	<i>Independent</i>	<i>The Greens</i>	<i>Family Team</i>
<input type="checkbox"/> Peter	<input type="checkbox"/> Jim	<input type="checkbox"/> Joe <input type="checkbox"/> Wayne <input type="checkbox"/> Elinor	<input type="checkbox"/> Doris <input type="checkbox"/> Robyn <input type="checkbox"/> Tom	<input type="checkbox"/> Sue <input type="checkbox"/> Steve		<input type="checkbox"/> Petra	<input type="checkbox"/> Bev
<input type="checkbox"/> Hector <input type="checkbox"/> Albert <input type="checkbox"/> Bernard <input type="checkbox"/> Norm <input type="checkbox"/> John	<input type="checkbox"/> Registered Ticket	<input type="checkbox"/> Terry <input type="checkbox"/> Prue <input type="checkbox"/> Rosemary <input type="checkbox"/> Gordon <input type="checkbox"/> Karen <input type="checkbox"/> Bob <input type="checkbox"/> Bill <input type="checkbox"/> Anna	<input type="checkbox"/> Gary <input type="checkbox"/> Bill <input type="checkbox"/> Albert <input type="checkbox"/> Trevor <input type="checkbox"/> Tony <input type="checkbox"/> Finna <input type="checkbox"/> Sam	<input type="checkbox"/> Jack <input type="checkbox"/> Carl <input type="checkbox"/> Registered Ticket	<input type="checkbox"/> Michael <input type="checkbox"/> Registered Ticket	<input type="checkbox"/> John <input type="checkbox"/> Amanda <input type="checkbox"/> Registered Ticket	<input type="checkbox"/> Norm <input type="checkbox"/> Frank <input type="checkbox"/> Susan <input type="checkbox"/> Registered Ticket
<input type="checkbox"/> Registered Ticket		<input type="checkbox"/> Registered Ticket	<input type="checkbox"/> Registered Ticket				

ATTACHMENT 2 - DEFINITION OF THE TOWNSHIP BOUNDARIES USED AS A BASIS FOR DISTRICTING



BALLOT ORDER CALCULATIONS BY PARTY

DEMOCRATIC PARTY OF ALASKA

of reg. voters allowed to vote in Democratic Primary

Democrats	54,070		
Nonparts.	84,728		
Undeclar.	69,320		
Green	482		
Republicans	58,900		
Other	5,572		
		Total	273,072

GREEN PARTY OF ALASKA

of reg. voters allowed to vote in Green Primary

Green	482		
Nonpart.	84,728		
Undeclar.	69,320		
		Total	154,530

REPUBLICAN PARTY OF ALASKA

of reg. voters allowed to vote in Republican Primary

Republican	58,900		
Nonpart.	84,728		
Undeclar.	69,320		
		Total	212,948

Total # of candidate ballots if ordered 100%			640,550
---	--	--	---------



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

September 9, 1991

Representative Eugene Kubina
P.O. Box 2463
Valdez, Alaska 99686

Dear Representative Kubina,

Thank you for your letters earlier this summer in regards to runoff requirements and primary elections. I am glad you have taken an interest in the election process since Title 15 is really a mess. The Green Party would like to participate in your hearings. We have to realize that Alaska is no longer a two-party state, and we need to make equitable laws that reflect that reality.

Briefly, I don't believe the Green Party is interested in supporting a 40% runoff requirement. We would more likely support a preferential voting system like the one in Australia. Voters prioritize their votes, and if the first choice doesn't get a majority, then the vote goes to the next choice, and so on. It makes the ballot counting more complicated, but it gives the voters maximum freedom to prioritize their votes, and it avoids the necessity of having another election. Additionally, a runoff situation favors larger more established parties who have most ready access to money. It would be a clear disadvantage to a smaller party like the Greens. I will bring your proposal before our convention September 21st, and see whether or not there is any support.

On the matter of the primary, I have heard that Oregon has a state-sponsored caucus and primary. I haven't looked at it, but several people have pointed me in that direction. The thing that irks me about the Republican closed primary, where Nonpartisans and Republicans are allowed a Republican ballot, is the possibility that all the other parties will follow suit. That could lead to the situation where a Nonpartisan voter could vote four separate ballots and those choosing to affiliate with a party could only vote one ballot. I like the idea of maximum freedom, but parties in the U.S. are already weak, and this would be a clear disincentive to join one. The only reason someone might want to join a party would be to influence the policies and programs of that particular party. The Greens will grapple with this issue at the convention, but there is a wide spectrum of thought from having a totally open primary for anyone who wishes to vote Green, to the Republican solution, to a completely closed primary for Greens only. My gut feeling is that the Republican solution will be most likely to be approved, but I really don't know.

The real fly in the ointment so far as Nonpartisan voters are concerned is that they ought to be able to cast one vote for anyone in any party. I personally don't think they should be able to vote four entire ballots, nor do I think they should be limited to only one party's ballot. Perhaps there should be a ballot for Nonpartisans which contains all the names from all the other parties, and they could choose one from among all. This really seems to be getting more complicated than it needs to be, but nothing is simple these days.

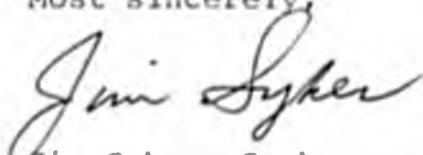
I hope you are interested in totally revamping Title 15 rather than just the two main items you addressed earlier. I personally believe that the O'Callaghan lawsuit is to the point--the election of Walter Hickel and Jack Coghill was illegal. The petition process which I won in court still hasn't been addressed by legislation. I am prepared to give input on that matter also, since it goes to the heart of what is a fair election process.

The whole question of representation is being begged by the gerrymandering created by the current administration. A constitutional convention may be in order to consider such things as a unicameral legislature with many more representatives or perhaps a Senate that is represented by regions like the U.S. Senate. There were rumors that such a plan would not pass muster with the Federal Government, but I think it has merit, and is definitely defensible.

I will try to come up with a list of specific items that need to be addressed in Title 15 if you are interested. It will be a long list, but some well-thought changes are needed. It was quite evident in my court case last year that no one in the legislature stood up to say, "We are Republicans and Democrats, but we must work to insure fairness to all Alaskans and political parties." There was plenty of evidence to the contrary and the judge saw it. I hope the next legislature can deal responsibly with some real substantive issues.

The Green party will give these matters serious thought. The Green Party, and myself personally, look forward to being of assistance in terms of background and/or testimony as these matters get attention.

Most sincerely,



Jim Sykes, Spokesperson

COVER. TAB

TO: Annie
House State Affairs

RE: HB327 FAX 465-2277



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

January 24, 1992

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

Rep. Gene Kubina, and
House State Affairs Committee
Juneau, AK 99811-1182

Dear Chairman Kubina,

The Green Party of Alaska has been following two bills heard by your committee on Friday, HB327 and HJR45. After hearing the meeting I felt some comments and observations might be helpful.

First, regarding HB327, it seems the committee is struggling with a lot of mechanical details, including the structure of the gubernatorial election. It seems that the objectives of the primary election need to be clarified--why we are having it, who participates, and how they participate.

In preparation for Sykes v. State of Alaska in 1990, I learned that the constitutional right of all citizens to freely associate with the candidate of their choice is a highly held principle. It seemed like the committee was searching for a litigation-free quick fix. This particular issue is one that needs thorough thinking, understanding and consent of the citizens. If the legislature comes up with a sound concept for elections, I think the effect of the recent supreme court case, (Tashian?) may be overestimated.

Someone specifically mentioned a ballot for the nonpartisan voters. The Green Party rule at present specifically provides that Green candidates can appear on such a nonpartisan ballot if it becomes a reality.

Wednesday, I heard for the first time that the committee was taking a look at the "Louisiana system". It doesn't sound like it has much to offer over our present system. Louisiana is basically a two-party state, we are a four-party state and must make provisions to ensure equal opportunity for all existing and future parties.

It occurred to me that one way of holding an election without the primary would be to use the Australian ballot system. Voters would prioritize their vote, by number, and if no one achieved a majority, the lowest vote getter would be eliminated, and the second choice on those ballots would be recounted and added to the election results. This would happen until the 40 or 50% threshold were reached.

Such a system would do two things, it would give the voters maximum choice and freedom to associate with the candidate of their choice, and it would also allow the voters to have some say in who was elected even if it were their second or third choice.

It seems the two most moneyed parties (R & D) are still the most likely to end up in a runoff using the "Louisiana system". The legislature is charge with protecting all our rights, not just those of Republicans and Democrats. The Green Party would certainly like to be kept abreast of any future considerations, since our input might help resolve the problem.

Since there are many conceptual and structural problems with Title XV, you might also wish to consider a 120 day campaign limit so that people don't start their campaigns as soon as the previous election is over.

I know that the Division of Elections wants to keep everything simple, however a bandaid won't do when there is needed major surgery. The required change in computer format and voter education would certainly be cheaper than runoff elections. Over the long term it would be a great deal less expensive.

In reference to HB327 CS dated 1/23/92 I see a few problems.

1) On page 1 line 11, I think blocking write-ins is probably unconstitutional. The same with page 2 line 3.

2) Page 3 line 17, the notation of official endorsement by a political party may be giving unequal treatment to candidates who run by petition, since they theoretically have no party affiliation, but may have endorsements that may be better than that of a political party.

3) Page 4 line 5, appears to be in conflict with statements on page one and page 2 prohibiting write-ins.

5) Page 5 section (g). This section gives unequal treatment to other candidate provisions. This section would allow a candidate to choose a running mate without going through the primary or petition process, essentially avoiding the scrutiny of the voting public. It is vastly discriminatory to the petition candidate who must fill and file the petition with a Lieutenant Governor's name. This is still different than the candidates who win the primary, where two people are brought together after winning a party primary. This is also discriminatory against the petition candidates, since the petition candidates must be a team before they can even get petitions signed, before they campaign. While the court did not consider this aspect in Sykes v. State, it was raised in argument, and would be very ripe for litigation. The legal concept is that a petition is a selection process equal to that of the primary.

6) Page 5 line 26, seems to tell who the state will recognize. "any two members of the (central) committee" may or may not mean an adequate representation of party officials has been consulted. Remember the Republicans in 1990?

The above mentioned legal opinions are those of a lay person who has only been to court once, but has done some legal research. They may be more accurately only a lay person's observations.

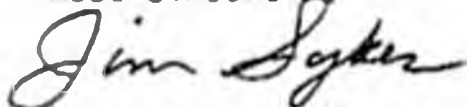
I understand the packet of rather detailed information regarding the Australian ballot which was sent isn't available to the committee. We will try to put together another one soon and get it to you for your perusal and consideration. The Australian ballot system may have more to offer than previously contemplated.

Regarding HJR 45, the idea is good to get the reapportionment process out of the hands of the governor. The bill's stated goal is to depoliticize the process, however it is readily apparent that it simply allows the legislature to politicize it instead of the governor.

I cite specifically the paragraph on page three outlining the makeup of the reapportionment board. If the goal is truly to depoliticize the process, why not have a representative from each party and five nonpartisans? Since the majority of voters are not registered to any party, why have not nine people who have records of not affiliating with any party?

You have some serious work ahead of you. The Green Party will be happy to answer any questions and work with the legislature, Division of Elections and other political parties to find a workable election system and reapportionment structure that assures everyone's rights. Please send a copy of this letter to all committee members. Thank you.

Most sincerely,



Jim Sykes, Spokesperson
Green Party of Alaska

cc: Elizabeth Ziegler, Division of Elections
Joni Whitmore, Green Party of Alaska Chair



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

GREEN PARTY OF ALASKA VIEWS ON PRIMARY RULES and HB327

The U.S. Supreme Court has declared that states cannot infringe upon the right of a state political party to decide how they will select their own candidates. The current crazy quilt of rules being proposed by political parties in Alaska affects the rights of all voters, most notably the Nonpartisan majority. It also causes confusion. The Division of Elections must explain the implications of all the different rules to poll watchers and voters. That won't be easy.

We must protect the rights of the majority not affiliated with a party. Presently the Republicans, Democrats and Greens have invited Nonpartisans to participate in their primaries in one form or another. It is a fact that people often vote for a candidate in the general if they voted a winner in the primary. In the case of the Republican rules Nonpartisans could theoretically participate in several primaries and even vote for two different people running for the same office from different parties. This creates unequal voting power--contrary to the concept of one person one vote.

The Democrats have opened their primary to anyone, so long as they don't participate in any other primary or candidate selection convention. A Nonpartisan candidate who might choose the Democrat ballot would be limited to only the Democratic slate of candidates, denying the Nonpartisan voter the freedom to freely associate with the candidate of their choice. Additionally onerous, assuming a party were to hold a nominating convention instead of a primary, other parties could be asked to turn over their records of those attending the nominating convention so the Democrats could bar them from the Democratic primary. This is either unenforceable, an invasion of privacy, or both.

We must ask what is the purpose of the primary. If it is for a party to choose its candidates, then what is the proper role for the participation of Nonpartisans? If all parties want Nonpartisan participation, then a Nonpartisan ballot could be made which would list all the candidates from all the parties. The Nonpartisan voter could then choose only one candidate from each office. The parties could bar registered members of other parties if they wished. Registered Party voters would get only a slate of candidates from the party to which they were registered.

That begs the question of the role of political parties. They are already weak. Greater voting power would still be given to the Nonpartisan voters. There would be little incentive for anyone to associate with a political party unless they wanted to strongly influence that particular party. Let us not forget the candidate who seeks office through the petition process. Why shouldn't anyone be able to go on the ballot and continue to the general election if they garner 1% of the vote?

The Green Party of Alaska sees what is presently evolving as confusing and essentially unworkable. If there is too much voter confusion, people will simply choose not to participate.

The 150 day notice of primary rules proposed by HB327 is not unreasonable, but anything longer would be unreasonable. If parties and Nonpartisans could agree on a single structure that everyone understands, that would be desirable. It may not be achievable.

The Green Party of Alaska is looking into the possibility of taking one or both of the larger political parties to court, and possibly the state as well. There has to be a way to satisfy the freedom of Nonpartisan voters to freely associate with the candidate of their choice and give some flexibility to the parties to make their own rules. The existing party rules affect all voters, but especially the Nonpartisan majority. Greens don't believe that parties have the right to make rules that disenfranchise voters.

There is always the option to returning to the pre-1968 law which allowed only party-registered voters to vote in the primary election. It seems most reasonable to retain a fully open primary for Nonpartisans and let each party decide whether or not they would bar registered voters from another party.



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

GREEN PARTY OF ALASKA PRIMARY RULES

Approved at the Green Party of Alaska Convention
Homer, Alaska September 22, 1991

The Green Party of Alaska believes in maximum voter freedom and equality for all voters. We adopt the following rules after debating the concepts of primaries and how people participate in them. We also recognize that the action of the Republican Party of Alaska has created a situation of unequal voting. We also recognize that the Democratic Party of Alaska has restricted voter freedom and written rules which are either unenforceable or may cause an invasion of privacy. The Green Party of Alaska is trying to restore, as much as possible, the freedom and equality that has been upset by the rules recently made by other political parties.

The Green Party of Alaska primary election shall be open to registered Green and Nonpartisan voters of Alaska. It is closed to registered Democrats, Republicans, and Alaska Independence Party members.

Green Party candidates will appear on the Green Party of Alaska ballot. Green Party candidates can also be listed on a Nonpartisan ballot, which would list all candidates from all parties, but voters could only choose one candidate for each office on the Nonpartisan ballot.

The Green Party of Alaska reserves the right to change its rules for the primary election at least 90 days preceding the primary election, which is the current state law.



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

GREEN PARTY OF ALASKA VIEWS ON PRIMARY RULES and HB327

The U.S. Supreme Court has declared that states cannot infringe upon the right of a state political party to decide how they will select their own candidates. The current crazy quilt of rules being proposed by political parties in Alaska affects the rights of all voters, most notably the Nonpartisan majority. It also causes confusion. The Division of Elections must explain the implications of all the different rules to poll watchers and voters. That won't be easy.

We must protect the rights of the majority not affiliated with a party. Presently the Republicans, Democrats and Greens have invited Nonpartisans to participate in their primaries in one form or another. It is a fact that people often vote for a candidate in the general if they voted a winner in the primary. In the case of the Republican rules Nonpartisans could theoretically participate in several primaries and even vote for two different people running for the same office from different parties. This creates unequal voting power--contrary to the concept of one person one vote.

The Democrats have opened their primary to anyone, so long as they don't participate in any other primary or candidate selection convention. A Nonpartisan candidate who might choose the Democrat ballot would be limited to only the Democratic slate of candidates, denying the Nonpartisan voter the freedom to freely associate with the candidate of their choice. Additionally onerous, assuming a party were to hold a nominating convention instead of a primary, other parties could be asked to turn over their records of those attending the nominating convention so the Democrats could bar them from the Democratic primary. This is either unenforceable, an invasion of privacy, or both.

We must ask what is the purpose of the primary. If it is for a party to choose its candidates, then what is the proper role for the participation of Nonpartisans? If all parties want Nonpartisan participation, then a Nonpartisan ballot could be made which would list all the candidates from all the parties. The Nonpartisan voter could then choose only one candidate from each office. The parties could bar registered members of other parties if they wished. Registered Party voters would get only a slate of candidates from the party to which they were registered.

THE PRIMARY DISASTER
by Jim Sykes

Most Alaskans could lose their primary election voting rights if the emerging crazy quilt of election rules is allowed to stand. In 1990, candidates from all parties appeared on the same primary ballot. All Alaska voters were free to choose any ONE candidate, from ANY party, for any ONE office. In 1992 voters could be forced to choose only one party's ballot, listing only that party's candidates.

A recent U.S. Supreme Court case (Tashjian) said that political parties have the right to choose how their own candidates are selected. Alaska Republicans decided to limit access to their ballot to Republicans and nonpartisans. They allowed themselves and nonpartisans to vote in other parties' primaries unless the other parties prevented it with their own rules. In theory, it became possible to vote in different parties' primaries for different candidates seeking the same office. The scheme allowed nonpartisan and Republican voters greater power than anyone registered to another party. The concept of equality and one person/one vote were trashed.

In response, Democrats and Greens passed rules to prevent the possibility of voting in multiple primaries. Alaska Independence Party has yet to decide. Democrats allow any voter from any party so long as the voter doesn't vote in another primary or participate in another party's nominating convention, (which is unenforcable). Greens decided nonpartisans and Greens could access their ballot, and took the additional step of allowing their candidates to appear on a nonpartisan ballot with candidates from other parties, (such a ballot does not yet exist but is being discussed by the legislature). As a result, voters can get just ONE party's ballot containing candidates from that party.

The morass of rules determining who can get which ballot is extremely confusing. Election workers, legislators and voters have difficulty figuring it out. Confusion will lead to less voter participation in primaries and allow those in power to more easily manipulate people. Parties will have more difficulty attracting new members.

Since 55% of all registered Alaskan voters are NOT registered to a party, parties have extended to nonpartisans the right to participate in the primary. One could easily argue in court that the freedom of nonpartisan voters has been infringed since they could not freely associate with the candidate of their choice. The single party ballot eliminates the opportunity to vote for a candidate in another party.

That brings us to the question, what is the purpose of the primary and who has the right to participate? Is the right of a political party more important than the right of the citizens to freely associate with the candidate of their choice? If parties choose candidates by convention or single-party primary do all voters have equal freedom?

We could skip the primary and go to a General election with the Australian ballot system. Voters number their preference for all candidates for each office. If no candidate gets the threshold of 40 or 50% of the vote, then the candidate with the least amount of votes is dropped and the votes are awarded to the second choice marked on those ballots. If the threshold is still not achieved, then the next lowest candidate is dropped and the votes are redistributed. Voters determine the order of their preference and have some say in the election even if the elected candidate is a second or third choice. In addition to giving voters the full range of candidates the need for an expensive runoff election is eliminated. Runoffs generally benefit the most well-moneyed parties. The House State Affairs Committee has expressed interest in the concept.

The Greens will most likely revisit their primary rule during their March convention, and possibly consider taking the matter to court. One of the Green Party's key values, Grassroots Democracy is now in Jeopardy in Alaska. The people of Alaska must now decide what to do about the primary whether they are registered to a party or not. Citizens must continue to have the right to choose who they want in their government.



Jim Sykes.

Spokesperson for the Green Party of Alaska
Candidate for Governor in 1990
Independent documentary radio producer

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

GREEN PARTY OF ALASKA VIEWS ON PRIMARY RULES and HB327

The U.S. Supreme Court has declared that states cannot infringe upon the right of a state political party to decide how they will select their own candidates. The current crazy quilt of rules being proposed by political parties in Alaska affects the rights of all voters, most notably the Nonpartisan majority. It also causes confusion. The Division of Elections must explain the implications of all the different rules to poll watchers and voters. That won't be easy.

We must protect the rights of the majority not affiliated with a party. Presently the Republicans, Democrats and Greens have invited Nonpartisans to participate in their primaries in one form or another. It is a fact that people often vote for a candidate in the general if they voted a winner in the primary. In the case of the Republican rules Nonpartisans could theoretically participate in several primaries and even vote for two different people running for the same office from different parties. This creates unequal voting power--contrary to the concept of one person one vote.

The Democrats have opened their primary to anyone, so long as they don't participate in any other primary or candidate selection convention. A Nonpartisan candidate who might choose the Democrat ballot would be limited to only the Democratic slate of candidates, denying the Nonpartisan voter the freedom to freely associate with the candidate of their choice. Additionally onerous, assuming a party were to hold a nominating convention instead of a primary, other parties could be asked to turn over their records of those attending the nominating convention so the Democrats could bar them from the Democratic primary. This is either unenforceable, an invasion of privacy, or both.

We must ask what is the purpose of the primary. If it is for a party to choose its candidates, then what is the proper role for the participation of Nonpartisans? If all parties want Nonpartisan participation, then a Nonpartisan ballot could be made which would list all the candidates from all the parties. The Nonpartisan voter could then choose only one candidate from each office. The parties could bar registered members of other parties if they wished. Registered Party voters would get only a slate of candidates from the party to which they were registered.

That begs the question of the role of political parties. They are already weak. Greater voting power would still be given to the Nonpartisan voters. There would be little incentive for anyone to associate with a political party unless they wanted to strongly influence that particular party. Let us not forget the candidate who seeks office through the petition process. Why shouldn't anyone be able to go on the ballot and continue to the general election if they garner 1% of the vote?

The Green Party of Alaska sees what is presently evolving as confusing and essentially unworkable. If there is too much voter confusion, people will simply choose not to participate.

The 150 day notice of primary rules proposed by HB327 is not unreasonable, but anything longer would be unreasonable. If parties and Nonpartisans could agree on a single structure that everyone understands, that would be desirable. It may not be achievable.

The Green Party of Alaska is looking into the possibility of taking one or both of the larger political parties to court, and possibly the state as well. There has to be a way to satisfy the freedom of Nonpartisan voters to freely associate with the candidate of their choice and give some flexibility to the parties to make their own rules. The existing party rules affect all voters, but especially the Nonpartisan majority. Greens don't believe that parties have the right to make rules that disenfranchise voters.

There is always the option to returning to the pre-1968 law which allowed only party-registered voters to vote in the primary election. It seems most reasonable to retain a fully open primary for Nonpartisans and let each party decide whether or not they would bar registered voters from another party.

... PUBLIC SITING MEETINGS COMMITTEES
FR: JIM SYKES, SPOKESPERSON, GREEN PARTY OF AK
RE: REVIEW OF PRIMARY PROBLEM & POSSIBLE SOLUTION

THE PRIMARY DISASTER
by Jim Sykes

Most Alaskans could lose their primary election voting rights if the emerging crazy quilt of election rules is allowed to stand. In 1990, candidates from all parties appeared on the same primary ballot. All Alaska voters were free to choose any ONE candidate, from ANY party, for any ONE office. In 1992 voters could be forced to choose only one party's ballot, listing only that party's candidates.

A recent U.S. Supreme Court case (Tashjian) said that political parties have the right to choose how their own candidates are selected. Alaska Republicans decided to limit access to their ballot to Republicans and nonpartisans. They allowed themselves and nonpartisans to vote in other parties' primaries unless the other parties prevented it with their own rules. In theory, it became possible to vote in different parties' primaries for different candidates seeking the same office. The scheme allowed nonpartisan and Republican voters greater power than anyone registered to another party. The concept of equality and one person/one vote were trashed.

In response, Democrats and Greens passed rules to prevent the possibility of voting in multiple primaries. Alaska Independence Party has yet to decide. Democrats allow any voter from any party so long as the voter doesn't vote in another primary or participate in another party's nominating convention, (which is unenforcable). Greens decided nonpartisans and Greens could access their ballot, and took the additional step of allowing their candidates to appear on a nonpartisan ballot with candidates from other parties, (such a ballot does not yet exist but is being discussed by the legislature). As a result, voters can get just ONE party's ballot containing candidates from that party.

The morass of rules determining who can get which ballot is extremely confusing. Election workers, legislators and voters have difficulty figuring it out. Confusion will lead to less voter participation in primaries and allow those in power to more easily manipulate people. Parties will have more difficulty attracting new members.

Since 55% of all registered Alaskan voters are NOT registered to a party, parties have extended to nonpartisans the right to participate in the primary. One could easily argue in court that the freedom of nonpartisan voters has been infringed since they could not freely associate with the candidate of their choice. The single party ballot eliminates the opportunity to vote for a candidate in another party.

That brings us to the question, what is the purpose of the primary and who has the right to participate? Is the right of a political party more important than the right of the citizens to freely associate with the candidate of their choice? If parties choose candidates by convention or single-party primary do all voters have equal freedom?

We could skip the primary and go to a General election with the Australian ballot system. Voters number their preference for all candidates for each office. If no candidate gets the threshold of 40 or 50% of the vote, then the candidate with the least amount of votes is dropped and the votes are awarded to the second choice marked on those ballots. If the threshold is still not achieved, then the next lowest candidate is dropped and the votes are redistributed. Voters determine the order of their preference and have some say in the election even if the elected candidate is a second or third choice. In addition to giving voters the full range of candidates the need for an expensive runoff election is eliminated. Runoffs generally benefit the most well-moneyed parties. The House State Affairs Committee has expressed interest in the concept.

The Greens will most likely revisit their primary rule during their March convention, and possibly consider taking the matter to court. One of the Green Party's key values, Grassroots Democracy is now in Jeopardy in Alaska. The people of Alaska must now decide what to do about the primary whether they are registered to a party or not. Citizens must continue to have the right to choose who they want in their government.



Jim Sykes,

Spokesperson for the Green Party of Alaska
Candidate for Governor in 1990
Independent documentary radio producer

DEMOCRATIC PARTY OF ALASKA

RESOLUTION 91-02

PRIMARY ELECTION PROCEDURE

WHEREAS the Republican Party of Alaska has voted to close their electoral primary; and

WHEREAS the closed primary enacted by the Republican Party of Alaska severely limits voter choice and makes it possible for a voter to cast more than one ballot for the same office in the same election, violating the fair and reasonable election practice of one person, one vote; and

WHEREAS the Alaska Democratic Party believes that Alaskan voters strongly desire to have the maximum number of choices when they exercise their voting rights; and

WHEREAS the actions by the Republican Party of Alaska forces the Alaska Democratic Party to change our election rules; and

WHEREAS the Alaska Democratic Party advocates maximum voter participation; and

WHEREAS the Alaska Democratic Party strongly opposes any election process that allows voters to vote more than one time in any one election

NOW THEREFORE BE IT RESOLVED THAT the Alaska Democratic Party Plan of Organization, Article X, General Rules and Procedures be amended by adding Section 17 as follows:

17.1 There is established a Democratic Party primary in Alaska.

17.2 Any qualified voter in the State of Alaska may vote in the Democratic Party primary regardless of party registration.

- .3 No voter who votes in any other primary or participates in selection of a candidate in another party's convention may cast a ballot in the Democratic Party primary.
- .4 The various rules of the Alaska Democratic Party, including those relating to primary elections are severable. Any invalidity or un-enforceability of any rule or part thereof shall not affect the remainder of the rule or rules in any way.

BE IT FURTHER RESOLVED THAT the Alaska Democratic Party condemns the Republican Party of Alaska for limiting voter choice and creating confusion among the electorate and urges Alaskans to speak out on the Republican closed primary.

Unanimously adopted
in open meeting of the
STATE CENTRAL COMMITTEE
DEMOCRATIC PARTY OF ALASKA
held in Fairbanks, Alaska
September 7, 1991.

BREAK-DOWN OF TOTAL ALASKAN REGISTERED VOTERS

The following is the present break-down of registered voters in the State of Alaska.

<u>REGISTRATION</u>	<u>NUMBER OF VOTERS</u>	<u>PERCENTAGE OF VOTERS</u>
Republican Party	57,048	21%
Democratic Party	53,699	20%
Alaska Independence Party	2,066	1%
No Party Preference	85,627	31%
Undecided	68,804	25%
Other Party Affiliation	5,719	2%
<u>TOTAL</u>	<u>273,162</u>	<u>100%</u>

Those persons registered as Republican Party, No Party Preference and Undecided, are eligible to vote in the Republican primary. Those persons registered as Democratic Party, Alaska Independence Party, and Other Party Affiliation would not be eligible to vote in the Republican primary.

Any voter, however, may change his or her party registration at the polling place on election day and become eligible to vote in the Republican primary.

Exhibit C
Page 1

1	11,112	7,150	1,417	100	3,829	5,011	702
2	6,960	1,668	749	60	2,167	1,716	155
3	3,553	1,152	965	43	1,745	1,406	102
4	19,124	3,407	2,410	181	3,070	3,145	311
5	14,724	2,927	1,244	87	3,305	3,050	316
6	3,754	1,128	1,018	46	1,897	1,449	128
TOTAL REGION I (110 PRECINCTS)	58,244	12,232	10,293	348	20,459	19,836	1,716

7	7,381	1,312	2,256	35	2,757	1,489	399
8	19,936	2,442	4,242	91	3,844	3,421	336
9	14,561	2,344	3,248	110	3,818	3,326	359
10	14,409	2,591	3,670	113	4,193	3,700	248
11	8,374	1,751	1,542	124	2,432	2,509	102
12	10,296	2,597	1,981	94	3,111	2,514	170
13	11,941	2,272	2,459	108	2,719	3,023	204
14	12,609	2,503	1,781	66	3,776	3,142	209
15	10,142	2,492	4,784	110	4,743	3,591	708
16	10,444	3,186	4,374	140	6,714	3,746	316
TOTAL REGION II (114 PRECINCTS)	117,817	23,225	37,835	1,320	40,547	32,895	2,554

ANCHORAGE
119,379*

17	6,487	1,314	1,351	52	2,378	1,419	142
18	10,985	1,537	2,473	100	2,490	3,744	221
19	9,849	1,574	1,781	80	3,110	2,912	214
20	17,557	2,510	2,452	93	3,881	3,372	329
21	7,744	3,423	1,574	83	2,573	1,884	292
24	5,888	1,457	477	92	1,714	914	134
27	10,588	1,318	1,794	64	2,811	1,852	117
TOTAL REGION III (108 PRECINCTS)	57,182	11,808	17,324	555	18,836	14,128	1,439

22	3,490	1,490	542	61	1,338	1,712	93
23	4,971	1,731	469	50	1,403	972	117
25	4,273	1,726	519	55	1,506	838	85
26	7,160	1,428	1,814	70	2,078	2,418	103
TOTAL REGION IV (109 PRECINCTS)	22,400	6,434	2,784	236	6,365	3,940	438
STATE TOTAL (437 PRECINCTS)	275,163	55,609	57,068	2,268	85,627	68,806	5,710

* ANCHORAGE TOTAL = District 7-15, Less Nikiski #1 (1,068)
 121,079
 (1,718)
 119,379*

GREEN PARTY OF ALASKA 92-17

ELECTION OPTIONS RESOLUTION

WHEREAS Alaska's structure for elections is uncertain at this time, and

WHEREAS the Green Party needs to get preclearance from the Federal Government,

THEREFORE BE IT RESOLVED that the Green Party of Alaska will participate in the open blanket primary as it has been run for the last 20 years, allowing any voter to choose to vote for any candidate in the primary election, and

BE IT STILL FURTHER RESOLVED that if there is a non-partisan ballot that Green Party candidates shall be allowed to appear on such a ballot, and if there is a Republican-only ballot and a ballot of everyone but Republicans, the Green Party shall allow its candidates to be listed on the Non-Republican Ballot Only, and

BE IT STILL FURTHER RESOLVED that if parties are limited to listing their candidates on their own ballot that the Green Party of Alaska allow any Alaska voter access to the Green Party Ballot, so long as that voter does not vote the ballot of another political party, and

BE IT STILL FURTHER RESOLVED that the Green Party of Alaska Statewide council shall have the power to adjust proposals to meet the needs of the 1992 election according to the above-listed priorities.

Approved by Consensus
Green Party of Alaska Convention
Fairbanks, Alaska
~~April~~ 22, 1992
MAR 24

7.251

The duties of a State Party Standing Committee shall be fixed by the State Committee and all Standing Committee Chairs shall work at the direction of the State Chair.

7.22

A Chair may appoint pro tem. or the membership of any Alaskan Independence Party organization may elect a moderator to chair a meeting.

Article VIII. SEVERABILITY

The various rules of the Alaskan Independence Party, including those relating to the primary elections, are severable. Any invalidity or unenforceability of any rule or part thereof shall not effect the remainder of these Bylaws in any way.

8.01

Between conventions of the Alaskan Independence Party, the State Committee may adopt temporary rules or clarifications that are necessary to insure that the bylaws and actions of the Alaskan Independence Party are consistent with state and federal law.

Article IX. PRIMARY ELECTIONS

The Alaskan Independence Party (AIP), believing in the principle of voting for the individual, do establish an open primary election which lists all parties' candidates for office, consistent with applicable law.

9.01

Any registered voter who has not voted another primary ballot may vote in the Alaskan Independence Party primary.

9.02

The fact that a voter has voted in the Alaskan Independence Party Primary Election shall not disqualify that voter from voting in the primary election of any other political party or parties, where that voter's participation in the primary election of the Alaskan Independence Party is authorized or permitted by the rules of the other party, or by the statutes of the United States or the State of Alaska.

Article X. MISCELLANEOUS

7.26

Terms implying or denoting gender in these bylaws or in any other official correspondence of the Alaskan Independence Party, such as Chair, Vice Chair, his, him, himself, and he, are used solely for brevity and ease of reference and are not to be construed as referring to any particular gender, masculine or feminine.

DEMOCRATIC PARTY OF ALASKA

RESOLUTION 91-02

PRIMARY ELECTION PROCEDURE

WHEREAS the Republican Party of Alaska has voted to close their electoral primary; and

WHEREAS the closed primary enacted by the Republican Party of Alaska severely limits voter choice and makes it possible for a voter to cast more than one ballot for the same office in the same election, violating the fair and reasonable election practice of one person, one vote; and

WHEREAS the Alaska Democratic Party believes that Alaskan voters strongly desire to have the maximum number of choices when they exercise their voting rights; and

WHEREAS the actions by the Republican Party of Alaska forces the Alaska Democratic Party to change our election rules; and

WHEREAS the Alaska Democratic Party advocates maximum voter participation; and

WHEREAS the Alaska Democratic Party strongly opposes any election process that allows voters to vote more than one time in any one election

NOW THEREFORE BE IT RESOLVED THAT the Alaska Democratic Party Plan of Organization, Article X, General Rules and Procedures be amended by adding Section 17 as follows:

17.1 There is established a Democratic Party primary in Alaska.

.2 Any qualified voter in the State of Alaska may vote in the Democratic Party primary regardless of party registration.

- .3 No voter who votes in any other primary or participates in selection of a candidate in another party's convention may cast a ballot in the Democratic Party primary.
- .4 The various rules of the Alaska Democratic Party, including those relating to primary elections are severable. Any invalidity or un-enforceability of any rule or part thereof shall not affect the remainder of the rule or rules in any way.

BE IT FURTHER RESOLVED THAT the Alaska Democratic Party condemns the Republican Party of Alaska for limiting voter choice and creating confusion among the electorate and urges Alaskans to speak out on the Republican closed primary.

Unanimously adopted
in open meeting of the
STATE CENTRAL COMMITTEE
DEMOCRATIC PARTY OF ALASKA
held in Fairbanks, Alaska
September 7, 1991.

ARTICLE XIV - PRIMARY ELECTIONS

Section 1. Eligible Voters

Only registered Republicans, registered Independents, and those who state no preference of party affiliation shall be allowed to vote in the Republican primary election for Governor, Lieutenant Governor, U.S. Senator, U.S. Representative, and members of the State Legislature.

Section 2. Republican Designation

No person may use the word "Republican" on any ballot or in any campaign as part of a description of himself as a candidate unless that person is a candidate of the RPA, selected according to the Rules of the RPA.

Section 3. Maximize Voter Participation in Primary Elections

(a) Any voter qualified to vote in the Republican Party primary may vote in that election, regardless of whether or not that voter has voted in the primary election of any other party.

(b) The fact that a voter has voted in the Republican Party primary election shall not disqualify that voter from voting in the primary election of any other political party or parties, where that voter's participation in the primary election of other parties is authorized or permitted by the rules of the other party or parties, or the statutes of the United States or the State of Alaska.

Section 4. Implementation of Primary Election

The SCC, or the EC in the event that there is insufficient time to convene the SCC, may adopt any and all additional rules, regulations, interpretations, clarifications, and the like, which are necessary or desirable to implement the Republican primary election in accord with other rules adopted at this Special Convention (held March 2, 1991), and pursuant to Article XIV of the Rules of the RPA. Any action taken by the Central or Executive Committee under the provisions of this rule shall have the same force and effect as if adopted by this Convention.

Section 5. Prior Registration Requirement

In order to be a candidate in any Republican Party primary election, a person must have been a registered voter of the Republican Party of Alaska for a continuous period of six (6) months immediately prior to the filing deadline for the primary election.

Grassroots Democracy
Ecological Wisdom
Personal & Social Responsibility
Nonviolence
Decentralization



Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

GREEN PARTY OF ALASKA

P. O. Box 82653 Fairbanks, AK 99708 (907) 452 6476

April 13, 1992

Mr. J. Gerald Hebert, Acting Chief
Voting Section, Civil Rights Division
Department of Justice
320 First Avenue N.W., Room 720
Washington, D.C. 20534

RECEIVED
APR 24 1992
OF ELECTIONS

Re: Submission under Section 5 of the Voting Rights Act
Green Party of Alaska
Modification of primary election procedures

Dear Mr. Hebert:

The Green Party of Alaska (hereinafter the GPA), by resolution adopted by consensus on March 22, 1992 at its statewide convention, has modified its previously adopted rules on primary elections. Those modifications became effective at the close of the convention, which was adjourned on March 22, 1992. The party has the right to change its primary election rules pursuant to its constitutional right of political association, as recognized by the Supreme Court of the United States in Tashjian v. Republican Party of Connecticut, 479 U.S. 208, 107 S.Ct. 544, 93 L.Ed.2d 514 (1986).

In the last primary election held in the State of Alaska, there was a "blanket open" primary. There was only one ballot, and all candidates were listed on that ballot regardless of party. Any registered voter could participate in the primary and could vote for any candidate of any party.

Our last submission to the Department of Justice respecting the GPA primary process was dated February 7, 1992. No primary elections have taken place under the procedures identified in that submission. Those procedures have been replaced with the procedures identified in this submission.

The resolution adopted at the GPA statewide convention on March 22, 1992 sets forth a prioritized list of rules for GPA primary elections, depending on the actions taken by other parties and by the State of Alaska. The GPA State Council (the GPA's governing body between conventions) is authorized by the resolution to implement the resolution according to the priorities set out.



The first preference is for the blanket open primary, as it has been run in Alaska for many years. If all other parties agree to participate in such a primary, and the State continues to hold such a primary, the GPA will continue to participate in it, and will not participate in any other primary ballot.

The second preference contains two alternatives. If there is a primary ballot which is created to allow non-partisan voters to participate in the primary election, then GPA candidates will be allowed to appear on that ballot. By "non-partisan voters" we mean voters who are not registered as Democrats, Republicans, Alaska Independents or Greens. The second alternative is that if there is a ballot for Republican candidates, and a ballot for all candidates other than Republicans, the GPA candidates shall be allowed to appear on the ballot for all candidates but Republicans.

The third preference is that there be a ballot for the GPA only. If this preference is resorted to, the GPA ballot shall be available to all registered voters, regardless of party affiliation, who do not vote the separate primary ballot of any other political party.

Pursuant to 28 C.F.R. § 51.27, the GPA submits the following information:

- (a) A copy of the resolution modifying the GPA primary election procedures, adopted at the Statewide Convention on March 22, 1992, is attached hereto as Exhibit A.
- (b) A copy of A.S. §§ 15.25.010 and .060, which provided for the previous blanket open primary, is attached hereto as Exhibit B.
- (c) The difference between the submitted procedures and the prior procedures is set out in the preceding paragraphs above.
- (d) This submission is being made by Ronnie Rosenberg, Chair of the Green Party of Alaska, P.O. Box 82653, Fairbanks Alaska 99708. Communications regarding this submission should be addressed to me.
- (e) The GPA is located in the Municipality of Fairbanks, State of Alaska, at the address set out in paragraph (d).
- (f) This primary rule was adopted by resolution by the GPA at their Statewide Convention held March 20-22, 1992 in Fairbanks, Alaska. The rule was adopted by consensus of the participating registered GPA voters. The GPA has the authority to adopt these procedures pursuant to Tashjian

v. Republican Party of Connecticut. 479 U.S. 208, 107 S.Ct. 544, 93 L.Ed.2d 514 (1986).

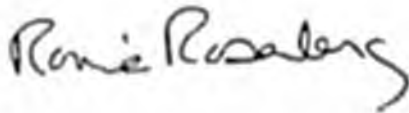
Decisions regarding party business between conventions are made by the GPA State Council, and it is authorized to implement the resolution.

- (g) The GPA has the authority to adopt this rule pursuant to its constitutional rights of political association, as recognized by the Supreme Court of the United States in Tashjian v. Republican Party of Connecticut.
- (h) The resolution adopting these new primary election procedures became effective at the close of the GPA Statewide Convention on March 22, 1992, and the procedures adopted will govern the GPA's participation in the primary election to be held in August, 1992.
- (i) This new rule has not yet been enforced or administered, except that the GPA is coordinating with the State of Alaska in order to ensure that any administrative detail may be worked out prior to the primary election in August of 1992.
- (j) The primary procedures adopted by the GPA will affect the entire State of Alaska. It applies only to state and national offices. Local elections in Alaska are non-partisan, and do not require primary elections.

Thank you for your consideration of this submission. The GPA cannot conceive that the Attorney General would object to the procedures adopted by the GPA, because they simply reflect the GPA's exercise of the constitutional right of political association.

A copy of this submission has been sent to the State of Alaska, Division of Elections, so that it is aware of the contents and of the need to conduct the GPA primary election under the new procedures.

Yours truly,



Ronnie Rosenberg, Chair
Green Party of Alaska

cc: State of Alaska, Division of Elections
GPA Officers and Bioregional Delegates

GREEN PARTY OF ALASKA 92-17

ELECTION OPTIONS RESOLUTION

WHEREAS Alaska's structure for elections is uncertain at this time, and

WHEREAS the Green Party needs to get preclearance from the Federal Government,

THEREFORE BE IT RESOLVED that the Green Party of Alaska will participate in the open blanket primary as it has been run for the last 20 years, allowing any voter to choose to vote for any candidate in the primary election, and

BE IT STILL FURTHER RESOLVED that if there is a non-partisan ballot that Green Party candidates shall be allowed to appear on such a ballot, and if there is a Republican-only ballot and a ballot of everyone but Republicans, the Green Party shall allow its candidates to be listed on the Non-Republican Ballot Only, and

BE IT STILL FURTHER RESOLVED that if parties are limited to listing their candidates on their own ballot that the Green Party of Alaska allow any Alaska voter access to the Green Party Ballot, so long as that voter does not vote the ballot of another political party, and

BE IT STILL FURTHER RESOLVED that the Green Party of Alaska Statewide council shall have the power to adjust proposals to meet the needs of the 1992 election according to the above-listed priorities.

Approved by Consensus
Green Party of Alaska Convention
Fairbanks, Alaska
~~April~~ 22, 1992
MAV,

Right to seek nomination or to become candidate for more than one office in the same election. 94 ALR2d 557.

Sec. 15.25.010. Provision for primary election. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by this chapter. (Sec. 5.01 ch 83 SLA 1960; am sec. 1 ch 1 SLA 1967; am sec. 1 ch 20 SLA 1980)

Effect of amendments. The 1960 amendment substituted 'AS 15.25.010 - 15.25.200' for 'this chapter' at the end of the section

Sec. 15.25.020. Date of primary. The primary election is held on the fourth Tuesday in August of every even-numbered year. (Sec. 5.02 ch 83 SLA 1960; am sec. 1 ch 26 SLA 1966; am sec. 2 ch 1 SLA 1967)

Sec. 15.25.030. Declaration of candidacy. (a) A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and shall state in substance:

- (1) the full name of the candidate;
- (2) the full mailing address of the candidate;
- (3) if the candidacy is for the office of state senator or state representative, the election or senate district of which the candidate is a resident;
- (4) the office for which the candidate seeks nomination;
- (5) the name of the political party of which the person is a candidate for nomination;
- (6) the full residence address of the candidate, and the date on which residency at that address began;
- (7) the date of the primary election at which the candidate seeks nomination;
- (8) the length of residency in the state and in the district of the candidate;
- (9) that the candidate will meet the specific citizenship requirements of the office for which the person is a candidate;
- (10) that the candidate is a qualified voter as required by law;
- (11) that the candidate will meet the specific age requirements of the office for which the person is a candidate;
- (12) that the candidate requests that the candidate's name be placed on the primary election ballot;
- (13) that the required fee accompanies the declaration;
- (14) that the person is not a candidate for any other office to be voted on at the primary or general election and that the person is not a candidate for this office under any other declaration of candidacy or nominating petition;
- (15) the manner in which the candidate wishes the candidate's name to appear on the ballot; and
- (16) that the candidate is registered to vote as a member of the political party whose nomination is being sought.

(b) A person filing a declaration of candidacy under this section shall simultaneously file with the director a statement of income sources and business

be declared nominated. The vacancy may be filled by party petition as provided in AS 15.25.110 - 15.25.130. (Sec. 24 ch 136 SLA 1966; am secs. 26, 27 ch 69 SLA 1970; am secs. 130, 131 ch 100 SLA 1980; am secs. 18, 19 ch 67 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 28, 1989, substituted 'more than 50 days' for '45 days' in the first sentence in subsection (a), and substituted '48 days' for '40 days' in the last sentence in subsection (a) and in the first sentence in subsection (c).

Legislative history reports. For report on ch 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Collateral references. Name or form of name to be used in designating candidate on primary or election ballot. 93 ALR 911.

Sec. 15.25.060. Preparation and distribution of ballots. The primary election ballot shall be prepared and distributed by the director in the manner prescribed for general election ballots except as specifically provided otherwise for the primary election. The director shall place the names of all candidates who have properly filed in groups according to offices filed for, without regard to party affiliation. The names for each office shall be rotated as provided for the general election ballot. No blank spaces shall be provided on the ballot for the writing or pasting in of names. (Sec. 5.06 ch 83 SLA 1960; am sec. 4 ch 1 SLA 1967; am sec. 132 ch 100 SLA 1980)

Effect of amendments. The 1980 amendment substituted 'director' for 'seutenant governor' where it appears near the middle of the first sentence and at the beginning of the second sentence.

Sec. 15.25.070. Special provisions on counting ballots. A voter may not vote for a person whose name is not on the ballot. Votes cast for a person whose name is not on the ballot may not be counted, but writing in a candidate's name does not invalidate the entire ballot. (Sec. 5.07 ch 83 SLA 1960; am sec. 5 ch 1 SLA 1967)

Sec. 15.25.080. Declaration of party preference. [Repealed, sec. 231 ch 100 SLA 1980.]

Editor's notes. The repealed section derived from sec. 5.08, ch 83, SLA 1960; sec. 6, ch 1, SLA 1967.

Sec. 15.25.090. General procedure for conduct of primary election. Unless specifically provided otherwise, all provisions regarding the conduct of the general election shall govern the conduct of the primary election, including, but not limited to, provisions concerning voter qualification; provisions regarding the duties, powers, rights, and obligations of the director, of other election officials, and of cities and organized boroughs; provision for notification of the election; provisions regarding payment of election expenses; provisions regarding employees being allowed time from work to vote; provisions for the counting, review, and certification of returns; provisions for the determination of tie votes and of recount, contests and appeal; and provisions for absentee voting. (Sec. 5.09 ch 83 SLA 1960; am sec. 7 ch 1 SLA 1967; am sec. 133 ch 100 SLA 1980)

(479 US 208)

JULIA H. TASHJIAN, Secretary of State of Connecticut, Appellant

v

REPUBLICAN PARTY OF CONNECTICUT et al.

479 US 208, 93 L Ed 2d 514, 107 S Ct 544

[No. 85-766]

Argued October 8, 1986. Decided December 10, 1986.

Decision: Connecticut prohibition of political party's choice to permit independents to vote in certain party primary elections held to violate freedom of association under First and Fourteenth Amendments.

SUMMARY

A Connecticut statute allowed only party members to vote in a primary election for a nomination to public office by a major political party. In 1983, one of the state's two major political parties adopted a rule (1) attempting to permit independents—registered voters not affiliated with any political party—to vote in the party's primaries for federal and statewide public offices, while (2) remaining silent as to the party's primaries for nominations for the state legislature. Then, challenging the state statute, the party, its federal officeholders, and its state chairperson filed suit in the United States District Court for the District of Connecticut against the Secretary of the State of Connecticut, who was charged with the administration of the state's election statutes. The District Court granted summary judgment in favor of the party and its members, expressing the view that the statute (1) imposed a substantial burden on their right of association under the First and Fourteenth Amendments to the United States Constitution, and (2) was not supported by any compelling state interests (599 F Supp 1228). On appeal, the United States Court of Appeals for the Second Circuit affirmed, expressing the view that (1) the qualifications clauses of Art I, § 2, cl 1, and the Seventeenth Amendment to the United States Constitution, requiring that voters in elections for the United States House of Representatives and Senate have the same qualifications as voters in elections for the most numerous branch of the state legislature, did not apply to party primaries; and (2) the state statute prohibiting the party rule substantially interfered with the party's constitutional right of political association, by determining

Briefs of Counsel, p 1089, *infra*.

TASHJIAN v REPUBLICAN PARTY OF CONNECTICUT

479 US 208, 93 L Ed 2d 514, 107 S Ct 544

who was eligible to participate in the party's candidate selection process (770 F2d 265).

On appeal, the United States Supreme Court affirmed. In an opinion by MARSHALL, J., joined by BRENNAN, WHITE, BLACKMUN, and POWELL, JJ., it was held that (1) the state's statutory prohibition of the party's primary voting rule placed an unconstitutional burden on the fundamental freedom of political association guaranteed by the First and Fourteenth Amendments, while the interests asserted by the state in defense of the statute were insubstantial, and (2) the party rule did not violate the qualifications clauses of Art I, § 2, cl 1, and the Seventeenth Amendment, because the clauses did not require a perfect symmetry, even though the clauses did apply to congressional primary elections.

STEVENS, J., joined by SCALIA, J., dissented, expressing the view that, under the circumstances, allowing independents to vote in primary elections for the United States House of Representatives and Senate, while prohibiting such voters from participating in primary elections for the state house of representatives, violated the qualifications clauses of Art I, § 2, cl 1, and the Seventeenth Amendment.

SCALIA, J., joined by REHNQUIST, Ch. J., and O'CONNOR, J., dissented, expressing the view that the Connecticut restriction on a party's primary voting to party members was constitutional, and that the Supreme Court's opinion exaggerated the importance of the associational interest at issue, if indeed such an interest existed.

JUNEAU LAW LIBRARY

HEADNOTES

Classified to US Supreme Court Digest, Lawyers' Edition

Constitutional Law § 940.5; Elections § 2 — party choice to allow independents to vote in primaries — freedom of association

1a-1g. A state statute which prohibits a political party from exercising its choice to permit independents—registered voters not affiliated with any party—to vote in the party's primary elections for federal and statewide offices places an unconstitutional burden on the fundamental freedom of political association guaranteed by the First and Fourteenth Amendments to the

United States Constitution, where (1) any interference with the freedom of a political party is simultaneously an interference with the freedom of its adherents; (2) under the circumstances, there is no conflict between the associational interests of members and nonmembers over voting in such elections; (3) a state law which permits registration as a party member until noon of the last business day preceding a primary is not a satisfactory response, for it requires action by the voters rather than the party, and insists upon a public act

TOTAL CLIENT-SERVICE LIBRARY® REFERENCES

25 Am Jur 2d, Elections §§ 116-119, 129-131, 150-152, 159; 77 Am Jur 2d, United States § 23

USCS, Constitution, Article I § 2 cl 1, Article I § 4 cl 1, Amendments 1, 14, 17

US L Ed Digest, Constitutional Law § 940.5; Elections §§ 2, 4
Index to Annotations; Congress; Due Process; Elections and Voting; Freedom of Association; Legislature; States

VERALEX™: Cases and annotations referred to herein can be further researched through the VERALEX electronic retrieval system's two services, Auto-Cite® and SHOWME™. Use Auto-Cite to check citations for form, parallel references, prior and later history, and annotation references. Use SHOWME to display the full text of cases and annotations.

ANNOTATION REFERENCES

Supreme Court's views regarding the First Amendment right of association as applied to the advancement of political beliefs. 67 L Ed 2d 859.

Supreme Court's views as to concept of "liberty" under due process clauses of Fifth and Fourteenth Amendments. 47 L Ed 2d 975.

What provisions of the Federal Constitution's Bill of Rights are applicable to the states. 18 L Ed 2d 1388, 23 L Ed 2d 985.

Fourteenth Amendment as affecting nomination or election to state office. 11 L Ed 2d 1057, 23 L Ed 2d 782.

TASHJIAN v REPUBLICAN PARTY OF CONNECTICUT

479 US 208, 93 L Ed 2d 514, 107 S Ct 544

of affiliation with the party as a condition of association; (4) the power of the state under the Constitution (Art I, § 4, cl 1) to prescribe the time, place, and manner of holding elections for United States Senators and Representatives, which power is matched by state control over the election process for state offices, does not extinguish the state's responsibility to observe the limits established by the First Amendment rights of the state's citizens; and (5) the interests which the state asserts in defense of the statute are insubstantial. (Scalia, J., Rehnquist, Ch. J., and O'Connor, J., dissented from this holding.)

Elections §§ 2, 4 — primaries — different qualifications for federal congressional and state legislative voters

2a-2c. A political party's rule permitting independents—registered voters not affiliated with any party—to vote in the party's primary elections for the United States House of Representatives and Senate, while remaining silent as to voting by such independents in the party's primary elections for the state legislature, does not violate the Federal Constitution's clauses on qualifications of federal congressional electors (Art I, § 2, cl 1, and the Seventeenth Amendment), where (1) the two clauses apply to the state's primary elections in precisely the same fashion as they apply to general congressional elections, (2) the two clauses do not require perfect symmetry, and (3) the party rule does not disenfranchise any voter in a federal congressional election who is qualified to vote in a primary or general election for the more numerous house of the state's legislature. (Stevens and Scalia, JJ., dissented from this holding.)

Constitutional Law § 940.5: Elections § 1 — First Amendment — tests

3. Constitutional challenges to specific provisions of a state's election laws cannot be resolved by any "litmus-paper test" that will separate valid from invalid restrictions; instead, a court must (1) consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that a plaintiff seeks to vindicate, and (2) identify and evaluate the precise interests put forward by the state as justifications for the burden imposed by its rule; a court must not only determine the legitimacy and strength of each of these state interests, but also consider the extent to which these interests make it necessary to burden the plaintiff's rights.

Constitutional Law § 36.3 — freedom of speech and association — due process

4. Freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the "liberty" assured by the due process clause of the Federal Constitution's Fourteenth Amendment, which embraces freedom of speech.

Constitutional Law § 940.5 — freedom of political association — extent

5a-5c. The freedom of association protected by the First and Fourteenth Amendments of the United States Constitution includes partisan political organization; the right to associate with the political party of one's choice is an integral part of this basic constitutional freedom; freedom to join together in the furtherance of common political beliefs necessarily presupposes the freedom

LIBRARY

to identify the people who constitute the association; a political party's determination of the boundaries of its own association, and of the structure which best allows it to pursue its political goals, is protected by the Constitution.

Constitutional Law § 940.5 — political organization — privacy of members

6a, 6b. A political organization has a constitutional right to protect the privacy of its membership rolls, where acts of public affiliation may subject the members of the organization to public hostility or discrimination.

Elections § 3 — time, place, and manner — right to vote

7. The power of a state under the United States Constitution (Art 1, § 4, cl 1) to regulate the time, place, and manner of holding elections for United States Senators and Representatives, which power is matched by state control over the election process for state offices, does not justify, without more, abridgment of the fundamental right to vote.

Constitutional Law § 940.5; Elections § 2 — party primary — freedom of association — administrative cost

8. Even assuming the factual accuracy of contentions as to the possibility of future increases in the cost of administering a state's primary election system due to a party rule permitting independents—registered voters not affiliated with any political party—to vote in the party's primary elections for federal and state-wide office, such contentions do not form a sufficient basis for infringing the First Amendment right of freedom of political association by prohibiting such a party rule.

Elections § 2 — primaries — raiding by other party

9. A possible state interest in seeking to curtail "raiding"—a practice whereby voters in sympathy with one political party designate themselves as voters of another party so as to influence or determine the results of the other party's primary—is not implicated by the state's prohibition of one party's choice to permit independents (registered voters not affiliated with any political party) to vote in certain party primaries, where, under state law, (1) the independents need only register as party members to vote in the primary, and (2) the state permits such registration as late as noon on the business day preceding the primary.

Constitutional Law § 940.5; Elections §§ 1, 2 — primary and general elections — relation — freedom of association

10a, 10b. A state has a legitimate interest in fostering informed and educated expressions of the popular will in a general election, but this interest is not sufficient to justify, under the First and Fourteenth Amendments to the United States Constitution, the state's prohibition of a party rule permitting independents—registered voters not affiliated with any political party—to vote in certain party primaries, on the grounds that voters would be misled by party labels in the ensuing general election, where (1) the United States Supreme Court's cases reflect faith in the ability of individual voters to inform themselves about campaign issues, (2) in the state in question, to be listed on a primary ballot requires that a candidate have obtained at least 20% of the vote at a party convention which

TASHJIAN v REPUBLICAN PARTY OF CONNECTICUT

479 US 208, 93 L Ed 2d 514, 107 S Ct 544

only party members may attend, and (3) the argument in favor of such a prohibition disregards the substantial benefit the party rule provides the party and its members in seeking to choose successful candidates, given the numerical strength of independent voters in that state. (Scalia, J., Rehnquist, Ch. J., and O'Connor, J., dissented in part from this holding.)

Constitutional Law §940.5; Elections §2 — party primary — freedom of association — protecting integrity of party

11a, 11b. Even if a state is correct that its prohibition of a political party's rule permitting independents—registered voters not affiliated with any party—to vote in certain party primaries protects the integrity of the two-party system and the responsibility of party government, a state or court may not constitutionally substitute its own judgment for that of the party; under the freedom of association for the advancement of political beliefs, as is true of all First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational. (Scalia, J., Rehnquist, Ch. J., and O'Connor, J., dissented from this holding.)

Elections §2 — single nominations

12a, 12b. A state may adopt a

policy of confining each voter to a single nominating act.

Constitutional Law §9 — construction — new subject matter

13. In determining whether a provision of the United States Constitution applies to a new subject matter, it is of little significance that it is one with which the framers were not familiar, for in setting up an enduring framework of government, they undertook to carry out for the indefinite future and in all the vicissitudes of changing human affairs, those fundamental purposes which the instrument itself discloses.

Elections §§2, 4 — constitutional voter qualifications — stages applicable

14. The goal—under Art I, §2, cl 1, and the Seventeenth Amendment to the United States Constitution—of assuring that the members of the United States Congress are chosen by the people can only be secured if that principle is applicable to every stage in the selection process; the constitutional voter qualifications of these clauses apply to primaries as well as to general elections (1) where the state law has made the primary an integral part of the procedure of choice, or (2) where in fact the primary effectively controls the choice.

SYLLABUS BY REPORTER OF DECISIONS

A Connecticut statute (§9-431), enacted in 1955, requires voters in any political party primary to be registered members of that party. In 1964, appellee Republican Party of Connecticut (Party) adopted a Party rule that permits independent voters—registered voters not affiliated with any party—to vote in Republi-

can primaries for federal and statewide offices. The Party and the Party's federal officeholders and state chairman (also appellees) brought an action in Federal District Court challenging the constitutionality of §9-431 on the ground that it deprives the Party of its right under the First

and Fourteenth Amendments to enter into political association with individuals of its own choosing, and seeking declaratory and injunctive relief. The District Court granted summary judgment in appellees' favor, and the Court of Appeals affirmed.

Held:

1. Section 9-431 impermissibly burdens the rights of the Party and its members protected by the First and Fourteenth Amendments.

(a) The freedom of association protected by those Amendments includes partisan political organization. Section 9-431 places limits upon the group of registered voters whom the Party may invite to participate in the "basic function" of selecting the Party's candidates. The State thus limits the Party's associational opportunities at the crucial juncture at which the appeal to common principles may be translated into concerted action, and hence to political power in the community. The fact that the State has the power to regulate the time, place, and manner of elections does not justify, without more, the abridgment of fundamental rights, such as the right to vote or, as here, the freedom of political association.

(b) The interests asserted by appellant Secretary of State of Connecticut as justification for the statute—that it ensures the administrability of the primary, prevents voter raiding, avoids voter confusion, and protects the integrity of the two-party system and the responsibility of party government—are insubstantial. The possibility of increases in the cost of administering the election system is not a sufficient basis for infringing appellees' First Amendment rights. The interest in curtailing raiding is not implicated, since § 9-431 does not impede a raid on the Republican Party by indepen-

dent voters: independent raiders need only register as Republicans and vote in the primary. The interest in preventing voter confusion does not make it necessary to burden the Party's associational rights. And even if the State were correct in arguing that § 9-431 in providing for a closed primary system is designed to save the Party from undertaking conduct destructive of its own interests, the State may not constitutionally substitute its judgment for that of the Party, whose determination of the boundaries of its own association and of the structure that best allows it to pursue its political goals is protected by the Constitution.

2. The implementation of the Party rule will not violate the Qualifications Clause of the Constitution—which provides that the House of Representatives "shall be composed of Members chosen . . . by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature"—and the parallel provision of the Seventeenth Amendment, because it does not disenfranchise any voter in a federal election who was qualified to vote in a primary or general election for the more numerous house of the state legislature. The Clause and the Amendment are not violated by the fact that the Party rule establishes qualifications for voting in congressional elections that differ from the qualifications in elections for the state legislature. Where state law, as here, has made the primary an integral part of the election procedure, the requirements of the Clause and the Amendment apply to primaries as well as to general elections. The achievement of the goal of the Clause to prevent the mischief that

TASHJIAN v REPUBLICAN PARTY OF CONNECTICUT

479 US 208, 93 L Ed 2d 514, 107 S Ct 541

would arise if state voters found themselves disqualified from participating in federal elections does not require that qualifications for exercise of the federal franchise be precisely equivalent to the qualifications for exercising the franchise in a given State.

770 F2d 265, affirmed.

Marshall, J., delivered the opinion of the Court, in which Brennan, White, Blackmun, and Powell, JJ., joined. Stevens, J., filed a dissenting opinion, in which Scalia, J., joined. Scalia, J., filed a dissenting opinion, in which Rehnquist, C. J., and O'Connor, J., joined.

APPEARANCES OF COUNSEL

Elliot F. Gerson argued the cause for appellant. David S. Golub argued the cause for appellees. Briefs of Counsel, p 1089, infra.

OPINION OF THE COURT

(479 US 210)

Justice Marshall delivered the opinion of the Court.

[1a, 2a] Appellee Republican Party of the State of Connecticut (Party) in 1984 adopted a Party rule which permits independent voters—registered voters not affiliated with any political party—to vote in Republican primaries for federal and statewide offices. Appellant Julia Tashjian, the Secretary of the State of Connecticut, is charged with the administration of the State's election statutes, which include a provision requiring voters in any party primary to be registered members

(479 US 211)

of that party. Conn Gen Stat §9-431 (1985).¹ Appellees, who in addition to the Party include the Party's federal officeholders and the Party's state chairman, challenged this eligibility provision on the ground that it deprives the Party of its First Amendment right to enter into political association with individuals of its

own choosing. The District Court granted summary judgment in favor of appellees. 599 F Supp 1228 (Conn 1984). The Court of Appeals affirmed. 770 F2d 265 (CA2 1985). We noted probable jurisdiction, 474 US 1049, 88 L Ed 2d 762, 106 S Ct 783 (1986), and now affirm.

1

In 1955, Connecticut adopted its present primary election system. For major parties,² the process of candidate selection for federal and statewide offices requires a statewide convention of party delegates; district conventions are held to select candidates for seats in the state legislature. The party convention may certify as the party-endorsed candidate any person receiving more than 20% of the votes cast in a roll-call vote at the convention. Any candidate not endorsed by the party who received 20% of the vote may challenge the party-endorsed candidate in a primary election, in which the candi-

1. The statute provides in pertinent part: "No person shall be permitted to vote at a primary of a party unless he is on the last-completed enrollment list of such party in the municipality or voting district . . ."

2. A "major party" is defined as "a political party or organization whose candidate for

governor at the last preceding election for governor received . . . at least twenty per cent of the whole number of votes cast for all candidates for governor." Conn Gen Stat §9-373§eB (1985). The Democratic and Republican parties are the only major parties in the State under this definition.