

SUBMISSION 7

Joint Standing Committee on Electoral Matters
Submission No. 7
Date Received 26/3/08
Secretary



Committee Secretary
Joint Standing Committee on Electoral Matters
Department of House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

Peter Milton

Dear Committee Secretary,

I refer to a letter dated 14 February 2008 sent to Ms Marion Harper, Secretary of the Melbourne Unitarian Peace Memorial Church, 110 Grey Street, East Melbourne, Victoria, 3002, by Senator John Faulkner. In the letter he referred to a letter of 3 December addressed to the Prime Minister, written by Ms Harper, which had been passed on to Senator Faulkner as he has the portfolio for electoral matters.

In her letter to the Prime Minister, Ms Harper had advised that the Melbourne Unitarian Peace Memorial Church had passed a resolution that a letter be sent to the Federal Labor Government, requesting that elections in both Houses of the Parliament be held at the same time every 4 years. In his letter, Senator Faulkner had advised that the ALP National Platform and Constitution contains a commitment for simultaneous fixed 4 year terms for the House of Representatives and the Senate. He suggested that the Unitarian Church might wish to make a submission on the matter to the Joint Standing Committee on Electoral Matters.

As a member of the Church, and as a former member of the House of Representatives (La Trobe 1980/90), Ms Harper asked me to give a talk to Church members and to make a submission on 4yr Fixed Term elections to the Melbourne 2020 Project, on behalf of the Church. The talk was given to the Church congregation in January and the submission was sent to Melbourne 2020 secretariat on 11 March. Ms Harper has now asked me to make a submission to your Committee on behalf of the Church.

I have accordingly enclosed a copy of my submission to the Melbourne 2020 Project and an edited version of my talk. I would be happy to enclose a full version of my talk if you wish but it contains some superfluous material that does not directly relate to the 4 Year Fixed Terms topic. The copy of the submission to the Melbourne 2020 Project is, I believe, suitable for your Committee as a summary of my more detailed talk that I am submitting as a supporting document. Please let me know if you wish Ms Marion Harper to authenticate my submission that I am making on behalf of the Melbourne Unitarian Peace Memorial Church.

Yours truly,

Peter Milton

4 YEAR FIXED TERM ELECTIONS HELD AT THE SAME DATE FOR BOTH HOUSES OF THE AUSTRALIAN PARLIAMENT

1. Advantages of 4 year Fixed term elections held at the same date.

Many electors, including ourselves, are of the view that it is not democratic for a Prime Minister to be able to choose the date of a Federal Election solely to benefit the political party of the Prime Minister. The fixed dates of elections in the United States of America have been established in that country for many years with very little criticism from American voters. It is also important to note that the business community find it difficult to plan for the future both because of an uncertain election date and because 3 year terms are too short for good planning.

An additional problem with 3 year terms is that political history shows that whatever political party holds Government, in the first two years they are dealing in a productive manner with legislation with regard to their policies, in the final third year they concentrate on trying to ensure that they will retain government at the next election. This results in a lack of positive government for the country as a whole. 4 year terms would mean that governments have a longer period to prepare and present legislation of greater depth and durability, and to plan similarly for the future.

Another important advantage for the 4 year fixed terms would be that there would be no point in the Senate voting to reject or in any other manner block Government money bills.

2. Disadvantages to 4 year Fixed held at fixed dates can be overcome.

The major disadvantage to a change to 4 year fixed terms for both houses to be held at a fixed date, will be the need to make changes to our Constitution. Very few of constitutional alterations have been approved since 1901 but those that have been approved have had the support of all the major political parties. We believe that in the atmosphere of the Australia 2020 Summit it should be possible to get the approval of the major parties to our proposal.

Another disadvantage, which is brought up, is that the Senate is a State House as indicated by the debates of our Founding Fathers. However, this is no longer the case as Senators usually support the views of their own major party (few are independent) and are not inclined to represent the views of their State electors, as opposed to the views of their political party.

It is also argued that Senators should have longer terms than members of the House of Representatives, in order to have the time to be a member of a House of Review. This argument may have been appropriate for the 20th century but, in these days of professional support for our parliamentarians from the public service and from the major parties, in our view, is not at all appropriate.

Peter Milton, Melbourne Unitarian Peace Memorial Church 11 March 2008



SHOULD AUSTRALIA HAVE 4 YEAR FIXED TERMS FOR BOTH HOUSES OF THE AUSTRALIAN PARLIAMENT? (EDITED VERSION)

THE RESOLUTION OF THE COMMITTEE OF MANAGEMENT

AT THE LAST MEETING OF THE UNITARIAN CHURCH COMMITTEE OF MANAGEMENT FOR 2007, A RESOLUTION WAS PASSED THAT A LETTER BE SENT TO THE INCOMING FEDERAL LABOR GOVERNMENT REQUESTING THAT ELECTIONS IN BOTH HOUSES OF THE PARLIAMENT SHOULD BE HELD AT THE SAME TIME EVERY 4 YEARS. OUR UNITARIAN CHURCH SECRETARY, MARION HARPER, HAS ASKED ME AS A FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES TO PROVIDE AN INFORMATORY ARTICLE ON THE ADVANTAGES AND DISADVANTAGES OF SUCH A CHANGE TO THE ELECTION PROCESS.

THE AUSTRALIAN CONSTITUTION AND ITS SECTIONS

THE MAJOR DISADVANTAGE TO THE PROPOSAL IS THE NEED TO ALTER THE AUSTRALIAN CONSTITUTION. IT HAS TO BE BORNE IN MIND THAT, SINCE THE CONSTITUTION CAME INTO EFFECT IN 1901, UNLESS ALL THE MAJOR POLITICAL PARTIES, NAMELY, THE AUSTRALIAN LABOR PARTY, THE LIBERAL PARTY AND THE NATIONAL PARTY, OR THEIR FORMER EQUIVALENTS, AGREED TO SUPPORT THE ALTERATIONS THEY WERE NOT APPROVED BY THE MAJORITY OF ELECTORS VOTING IN THE MAJORITY OF STATES AND THE MAJORITY OF ALL THE ELECTORS VOTING, AS IS REQUIRED TO ALTER THE CONSTITUTION. (SEE SECTION 128)

FOR EXAMPLE, AMENDMENTS WOULD BE REQUIRED TO THE FOLLOWING SECTIONS OF THE CONSTITUTION:-

SECTIONS 7 AND 13 SPECIFIES THAT SENATORS WILL BE CHOSEN FOR A TERM OF 6 YEARS AND SECTION 13 ALSO SPECIFIES THE FIRST OF JULY AS THE BEGINNING OF THE TERM FOR SENATORS;

SECTION 28 SPECIFIES THAT EACH HOUSE OF REPRESENTATIVES SHALL CONTINUE FOR 3 YEARS AND NO LONGER BUT MAY SOONER BE DISSOLVED BY THE GOVERNOR GENERAL:

SECTION 32 SPECIFIES THE DATES WHEN ELECTION WRITS FOR HOUSE OF REPRESENTATIVES ELECTIONS SHALL TAKE PLACE AND BY WHOM.

ALL THESE SECTIONS WOULD REQUIRE ALTERATION AND BOTH HOUSES OF PARLIAMENT WOULD BE REQUIRED, BY ABSOLUTE MAJORITIES, TO APPROVE THE ALTERATIONS BEFORE THEY COULD BE PRESENTED AS REFERENDUMS TO THE ELECTORS. (NOTE THAT ABSOLUTE MEANS MORE THAN HALF OF ALL MEMBERS OF EACH INDIVIDUAL HOUSE)

ADVANTAGES OF 4 YEAR FIXED TERMS

ONE ADVANTAGE, WHICH WOULD PROBABLY BE APPROVED BY A MAJORITY OF VOTERS, WOULD BE THAT PRIME MINISTERS WOULD NO LONGER HAVE THE RIGHT TO CHOOSE THE DATE OF A FEDERAL ELECTION, SUBJECT TO OTHER REQUIREMENTS OF THE CONSTITUTION. MANY ELECTORS BELIEVE THAT IT IS NOT DEMOCRATIC FOR A PRIME MINISTER TO BE ABLE TO CHOOSE AN ELECTION DATE, SOLELY TO BENEFIT THE PARTY OF THE PRIME MINISTER. IT SHOULD ALSO BE NOTED THAT THE BUSINESS COMMUNITY FINDS IT DIFFICULT TO PLAN FOR THE FUTURE WHEN THE ELECTION DATE IS UNCERTAIN. APART FROM DOUBLE DISSOLUTIONS, BECAUSE PRIME MINISTERS HAVE FREQUENTLY CALLED ELECTIONS BEFORE A THREE YEAR TERM HAS BEEN COMPLETED, IN THE LAST 30 YEARS THE AVERAGE TERM FOR THE HOUSE OF REPRESENTATIVES HAS BEEN APPROXIMATELY 27.5 MONTHS. IN MY OWN CASE, MY 4 TERMS GAVE ME AN AVERAGE OF 29 MONTHS FOR EACH TERM. IN OTHER WORDS, I ONLY SERVED 9 AND A HALF YEARS INSTEAD OF 12 YEARS.

ANOTHER IMPORTANT ADVANTAGE WOULD BE THAT THERE WOULD BE NO POINT IN THE SENATE VOTING TO REJECT OR, IN ANY OTHER MANNER, BLOCK MONEY BILLS, SUCH AS SUPPLY OR APPROPRIATION BILLS, WHICH CAN PRESENTLY BE DONE UNDER THE PROVISIONS OF SECTION 53 OF THE CONSTITUTION. THIS WOULD BE BECAUSE THE HOUSE OF REPRESENTATIVES WOULD BE COVERED BY THE 4 YEAR FIXED TERM PROVISION. IT IS UNLIKELY THAT ELECTORS WOULD HAVE FORGOTTEN THE CONSTITUTIONAL CRISIS CAUSED BY THE SENATE BLOCKING GOVERNMENT SUPPLY BILLS, LEADING TO THE WHITLAM LED ALP GOVERNMENT BEING DISMISSED BY THE GOVERNOR GENERAL IN 1975. AS MATTERS STAND, SUCH AN ACTION BY A HOSTILE SENATE AGAINST A GOVERNMENT COULD TAKE PLACE AGAIN.

FINALLY, A THIRD ADVANTAGE IS THAT A 4 YEAR FIXED TERM WOULD GIVE GOVERNMENTS A LONGER PERIOD TO PREPARE LEGISLATION AND PLAN FOR THE FUTURE. IT IS ARGUED THAT 3 YEAR TERMS MEANS THAT GOVERNMENTS SPEND THEIR FIRST YEAR CARRYING OUT THEIR ELECTION PROMISES, THE SECOND YEAR PREPARING NEW LEGISLATION, AND THE THIRD YEAR PREPARING FOR THE NEXT ELECTION. SUCH 'POLITICALLY EXPEDIENT' PARLIAMENTARY WORK IS NOT CONSIDERED OF BENEFIT FOR FUTURE PLANNING POLICY FOR AUSTRALIA. IT IS ALSO ARGUED THAT LONGER PERIODS BETWEEN ELECTIONS WOULD RAISE THE STANDARD OF POLITICAL DEBATE, BUT NOT UNLESS SOME CHANGES WERE MADE TO QUESTION TIME.

DISADVANTAGES OF 4 YEAR FIXED TERMS

HAVING MENTIONED ABOVE, THE DIFFICULTIES OF CHANGING THE CONSTITUTION OF AUSTRALIA IN GENERAL, AN ADDITIONAL DISADVANTAGE IS THAT CHANGING THE TERMS OF SENATORS FROM 6 YEARS TO 4 YEARS IS A CHANGE MANY ELECTORS WOULD NOT BE INCLINED TO SUPPORT, EVEN THOUGH THEY MIGHT WISH TO SUPPORT 4 YEARS FOR MEMBERS OF THE HOUSE OF REPRESENTATIVES. THE PROBLEM IS THAT WHEN THE CONSTITUTION CAME INTO FORCE IN 1901, THE SENATE WAS CONSIDERED A STATES HOUSE WHERE THE SENATORS FROM EACH STATE WOULD ATTEMPT TO ENSURE THAT LEGISLATION FROM THE HOUSE OF REPRESENTATIVES, WHICH MIGHT HARM THEIR STATE, WAS NOT APPROVED. IN THIS RESPECT, WE FIND THAT A CONSTITUTION, WHICH WAS FRAMED IN THE 19TH CENTURY, IS A GREAT HANDICAP. IN THOSE DAYS IT SEEMED LOGICAL THAT THE SENATE WOULD BE A STATE SUPPORTIVE HOUSE BUT THAT IS NOT THE CASE IN THE LATE 20TH AND 21ST CENTURY, WHEN THE POLICIES OF THEIR OWN POLITICAL PARTY ARE FREQUENTLY CONSIDERED FAR MORE IMPORTANT TO SENATORS THAN THEIR INDIVIDUAL STATES RIGHTS.

ANOTHER DISADVANTAGE COMES FROM THE FACT THAT THE SENATE IS BASICALLY A HOUSE OF REVIEW AND IT IS ARGUED THAT IT IS IMPORTANT FOR SENATORS TO HAVE 6 YEAR TERMS BECAUSE THAT GIVES THEM MORE TIME TO BECOME EXPERIENCED WITH THEIR REVIEW CAPACITIES. A HOUSE OF REPRESENTATIVES WILL SOMETIMES RUSH THROUGH LEGISLATION, WHICH MAY BE FAULTY IN SOME RESPECT, BUT

WHICH EXPERIENCED SENATORS CAN EXPOSE AND PROPOSE AMENDMENTS TO STRIKE OUT THE FAULTS.

A FINAL DISADVANTAGE IS THAT THE CONSTITUTION, BY GIVING THE MAJORITY OF SENATORS TERMS OF 6 YEARS, WHICH COVERS TWO 3 YEAR TERMS OF THE HOUSE OF REPRESENTATIVES, APPEARS TO PROVIDE SUPPORT FOR THE PROPOSAL THAT THE TERMS OF SENATORS SHOULD BE EXTENDED TO 8 YEARS, IN ORDER TO COVER TWO 4 YEAR TERMS OF THE HOUSE OF REPRESENTATIVES. SEVERAL STATES HAVE EXTENDED THE TERMS OF THEIR UPPER HOUSES TO 8 YEARS, TO COINCIDE WITH THE EXTENSIONS TO 4 YEARS OF THE TERMS OF THEIR LOWER HOUSES (AS HAS BEEN DONE IN VICTORIA, NEW SOUTH WALES, AND SOUTH AUSTRALIA) BUT IT IS UNLIKELY THAT SKEPTICAL VOTERS WOULD APPROVE OF 8 YEARS TERMS FOR SENATORS. THESE CHANGES HAVE BEEN MADE IN THOSE STATES DESPITE MANY POLITICAL PARTIES HAVING ALREADY EXPRESSED THE VIEW THAT 8 YEARS IS TOO LONG A PERIOD FOR THEM TO BE ABLE TO RELY ON PARLIAMENTARIANS REMAINING LOYAL TO THEIR PARTY.

CONCLUSION

IN PREPARING THE ABOVE COMMENTS ON THE PROPOSED CHANGE TO OUR PARLIAMENTARY SYSTEM BY THE INTRODUCTION OF 4 YEAR FIXED TERMS FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES, I HAVE TRIED TO AVOID WHAT IS A MOST COMPLEX ISSUE BY SIMPLIFYING A NUMBER OF THE FACTS. PERSONALLY, I AGREE WITH THE PROPOSAL BUT THERE ARE MANY MORE MINOR ADVANTAGES AND DISADVANTAGES, WHICH ARE BROUGHT UP WHEN THE MATTER IS DISCUSSED. OUR PROBLEM IS THAT WE HAVE A CONSTITUTION, FRAMED BY AUSTRALIANS OF GREAT DISTINCTION IN THE FINAL DECADE OF THE 19TH CENTURY, BUT THEY WERE PEOPLE WHO WERE COMPLETELY UNAWARE OF THE AUSTRALIA OF TODAY. A NUMBER OF CONSTITUTIONAL AMENDMENTS HAVE BEEN MADE OVER THE YEARS, SOME VERY IMPORTANT, BUT MAINLY ARISING FROM INTERPRETATIONS OF OUR CONSTITUTION BY THE HIGH COURT. BEARING IN MIND THAT THE HIGH COURT JUDGES ARE CHOSEN BY PRIME MINISTERS, INSTEAD OF A NON-BIASED COMMITTEE, THE CHANGES HAVE NOT ALWAYS BEEN FAVOURABLE TO DEMOCRATIC, INDUSTRIAL, AND SOCIAL VALUES.

THE PLAIN FACT IS THAT WE NEED A NEW CONSTITUTION. UNFORTUNATELY, OUR POLITICAL SYSTEM DOES NOT PRODUCE MANY AUSTRALIANS OF DISTINCTION WHO COULD PREPARE SUCH A CONSTITUTION WITHOUT POLITICAL BIAS. EVEN IF WE WERE ABLE TO FIND SUCH PEOPLE, OUR MEDIA AND POLITICIANS WOULD BE UNLIKELY TO SUPPORT THEIR PROPOSED CONSTITUTION. PERHAPS THERE IS SOME HOPE, BEARING IN MIND THAT VICTORIA HAS NOW PRODUCED A BILL OF RIGHTS AND VICTORIA ALSO CHANGED ITS PARLIAMENT BY REDUCING THE CONSERVATIVE POWER OF ITS UPPER HOUSE. IN MY VIEW THOSE WERE REAL REFORMS, WITH THE WORD REFORM USED CORRECTLY, AS OPPOSED TO THE USE OF THE WORD TO DESCRIBE POLITICAL CHANGES, WHICH WERE NOT REFORMS BUT OFTEN CHANGES FOR THE WORSE.

PETER MILTON (FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES FOR THE SEAT OF LA TROBE)

(1980 TO 1990)

FEBRUARY 2008

