



***AUSTRALASIAN STUDY OF
PARLIAMENT GROUP
(Queensland Chapter)***

COMPULSORY VOTING DISCUSSION PANEL

TRANSCRIPT OF PROCEEDINGS

MONDAY, 18 MAY 2015

Brisbane

MONDAY, 18 MAY 2015

Dr WEEKS: Good evening. We are just a few minutes later than planned, but that is quite okay. I have a very brief role here tonight. My name is Donna Weeks. I am the chair of the Australasian Studies of Parliament Group, Queensland chapter. I have been told to keep it very quick. I want to acknowledge the traditional owners of the land on which we meet here tonight and respect their elders past, present and future and, as we are here, think about the ways in which knowledge and governing practices are passed along from place to place. Our chair tonight will be Emeritus Professor Roger Scott. I am supposed to hand over to him very quickly. Just before doing that, my running details are given to me by our wonderful secretariat who usually get thanked right at the end, but I am going to break from the speaking notes that they have given me and thank both Lucy Manderson and Danielle Cooper. Seriously, without them, this does not happen. I acknowledge them.

I have the great pleasure of introducing the Speaker of the current 55th Queensland parliament, Mr Peter Wellington. As most of you no doubt know, Mr Wellington has been an Independent member for the Queensland Parliament, representing the electorate of Nicklin on the Sunshine Coast, since June 1988. As a declaration, I actually work at the University of the Sunshine Coast, but there is no connection whatsoever. It is all quite okay. It is mere coincidence.

During his years in parliament, of course, Mr Wellington has been a member of numerous parliamentary committees, including the Ethics Committee, the Scrutiny of Legislation Committee, the Legal Affairs and Community Safety Committee, several estimates committees and, of course, the Parliamentary Crime and Corruption Committee and its predecessor. Mr Wellington has also been responsible for the introduction of perhaps some of the most important bills to be passed by the House during these years, including in 2003 the Criminal Code (Palliative Care) Amendment Bill and the Rights of the Terminally Ill Bill, which ensured that doctors and staff carrying out their orders may administer palliative care for the purpose of relieving pain and suffering without fear of prosecution; and in 2007, the Criminal Code (Double Jeopardy) Amendment Bill that provided that an acquitted person may be retried for the same crime if new evidence is found.

It gives me great pleasure to announce that Mr Wellington has recently and most graciously accepted our invitation to be the ASPG Queensland patron. We are indeed very honoured that he has done so. Mr Wellington has agreed very kindly to provide us with a brief welcome to our event this evening. That is my job done and it is my greatest pleasure to welcome Mr Wellington, the Speaker of the Queensland Parliament.

Please switch off mobile phones, thank you.

Mr SPEAKER: Thank you, Donna, and thank you for acknowledging the traditional owners of the land on which we gather. I also acknowledge our panel members here this evening and some of my parliamentary colleagues: the leader of the House, Mr Stirling Hinchliffe; the Leader of Opposition Business, Mr Ray Stevens; the member for Burnett, Mr Stephen Bennett, who is also the shadow minister for the environment, heritage protection and national parks; the member for Burleigh, Mr Michael Hart; the member for Chatsworth, Mr Steve Minnikin, who is also the deputy opposition whip; and Mr Glen Elmes, the member for Noosa and one of our temporary speakers.

It is great to be here and to continue the tradition of the Speaker being the patron of this very important association. I understand we are going to commemorate 100 years of compulsory voting in Queensland. I think it is as topical today as it may have been 100 years ago. Queensland was not just the first state to introduce compulsory voting, but also the first in our region and your association is leading in discussions. I understand there are approximately 60 members in the Queensland branch of this association and that you are one of the most active. It is great to see so many people turn out this evening to hear the panel and take something informative away from tonight.

Compulsory Voting Discussion Panel

Without further ado, I welcome you here tonight. I thank you for coming and hand over to Emeritus Professor Roger Scott, who is going to chair the meeting. He is accompanied by his wife, Ann, who was here at 5.30 to make sure that things were all organised. Over to you, Professor, and thank you all very much for coming.

Prof. SCOTT: Thank you very much, Mr Speaker. Ann is here with a mobile phone that works and she is going to be timing the speeches. Each speaker has six minutes and then her phone will tell them that they have one minute to wrap up. That is not being disobedient; it is part of the planning.

I am here essentially to introduce people. Many people know each other very well and many people in the audience know many of the people on the panel. The panel is heavily loaded from the University of Queensland, which reflects an interest, at least on the teaching side, in these areas of government and politics and the role of the law. I will not give a detailed introduction to each person until they are about to speak. Their names are in front of them and you can work out who they are.

The first speaker, who will give us an overview of the process of compulsory voting, is Paul Reynolds. Paul was appointed to the department of government as it then was in the University of Queensland, before it got taken over by peace studies. He retired in 2003, having served since 1973. He taught courses in federal politics, Queensland politics and political sociology. Just about everybody who went through arts law will have been exposed to at least one of those. He is the author of three books, including the biography of Mike Ahern, which is very well known, and about 60 articles and chapters in papers about Queensland, about parliament and about political leadership.

On his retirement, Paul was offered an honorary research fellowship by the then Speaker at the Queensland Parliament where, among other things, he assists still in the running of the internal program and also an oral history project. He has remained, as it were, deeply entrenched in the institutions of parliament in a voluntary capacity. We are grateful that he is able to continue. Over to you, Paul Reynolds.

Dr REYNOLDS: Thank you, Roger. Australia has a history of electoral innovation. Every jurisdiction has experimented with forms of voting, ways of voting, forms of counting and so on. It would be nice to think that this sprung from a great commitment and a deep seated commitment to democracy. It did not. It was political expediency all the way. What we inherited from Britain was first past the post. I was interested to read last week that from 1860 to 1890 Queensland had five-year parliaments. In 1890, by a simple act of parliament, that was reduced to three. First past the post remained, but plural voting was abolished in 1905 when women were given the vote at the same time.

In 1912 there came to power a conservative government led by a gentleman called Denham. This was a time of industrial unrest. It was the lead-up to World War I, although, of course, nobody anticipated the appalling nature of that war before it started, but there were tensions in the air and there were tensions around Papua New Guinea and there was a lot of debate about what way forward we would go. Women had the vote. They had had the vote since 1905, but they were not permitted to stand for parliament. That did not come until 1915. The Denham government was increasingly unpopular as the 1915 election drew nigh and decided to bring in compulsory voting. They thought that would shore up their support base.

Well, they were not the first government to get it wrong and, certainly, they will not be the last. What they did, effectively, was to make sure that the itinerant workforce in Queensland, which was substantial in those days, went to the polls. If you were a ganger, a drover, a shearer or something of that nature, it was very likely you would not get to the polls and you would not even bother. However, by making it compulsory, of course, they had to extend the range of polling booths, the range of opportunities. And they crashed and burnt in 1915. That was the first election anywhere in Australia to use compulsory voting.

From there, it spread. The feds adopted it for the 1925 federal election and the turnout went up from 75 per cent to 95 per cent, where it has largely stayed to this day. In Queensland, we are regularly at 90 to 93 per cent. In by-elections, though, it does tend to drop. The compulsory nature of it is not so onerous, because people do not get fined more than a nominal amount. By 1944, the last of the jurisdictions took compulsory voting, and that was South Australia.

It is sometimes debated whether we should continue with it. I would make two observations. One is that it is rarely asked in opinion polls when people are being polled for their opinion on various political issues and matters, which suggests that it is not an issue. As far as the pollsters are concerned, it is not something that is worth even talking about. It is like asking if you are in favour of capital punishment; it is just not an issue. The second thing I would like to mention is that on occasions when the question has been asked in academic surveys, as well as in pollster-type surveys, about 80 per cent of persons say that they

are in favour of compulsory voting. I spent 20 years at the University of Queensland teaching first-year introduction to Australian politics. The students were, to a person, astonished that Australia was among the minority of countries that actually had it. They assumed that compulsory voting was universal and was the birthright of democracy. Sadly, no.

Why does it stay in vogue? There is one overwhelming reason: it saves the political parties a hell of a lot of money. I have lived in jurisdictions that had voluntary voting, as well as Australia. I can tell you this: the parties spend a lot of treasure getting the vote out, whereas here the state does it for them and they can spend their money on other things—about which they might or might not wish to own up to.

That was what I wanted to say. My colleagues will go into more detail. I wanted to present a quick introduction and to suggest that no country that has compulsory voting, to my knowledge, has reverted to voluntary voting. Those jurisdictions that adopt it seem to be quite comfortable with it. I think on balance it strengthens the party system too, because it means that people have a choice. Way back in the seventies, it was Malcolm Mackerras who invented the term ‘the two-party preferred vote’, which I have never been terribly comfortable with. Nevertheless, I think it encapsulates what compulsory voting does: it forces people, at the end of the day, to choose between one team or the other. Thanks, Ann; that is all I have to say.

Prof. SCOTT: You will hear from Paul right at the end of the evening, when we have heard from all the speakers, you have had an opportunity to talk to them and they can talk to each other. Basically, it is a six-minute presentation, then the bell goes off and we will go onto the next speaker.

The next speaker is, in fact, Dr Chris Salisbury. Chris completed his PhD in political history at the University of Queensland in 2013. He now works there as a postdoctoral fellow in the UQ Centre for the Government of Queensland, with which I also am associated. He has contributed to a number of web based projects, studying Queensland’s past and present, including the Queensland Speaks oral history project, for which public servants and people active in political life have been interviewed. His research interests include state and federal politics, government policy making and political leadership. He has taught in a wide variety of areas, including Russian history and Australian history, Australian social history and even modern Polish history. More to the point, he is a research associate and one of the foundation research associates of the TJ Ryan Foundation, of which I am the executive director. Chris, over to you.

Dr SALISBURY: Following Paul’s excellent and scholarly introduction to the topic, I am going to follow in a similar vein but present a more or less historically accurate description to you of the history of the introduction of compulsory voting in Queensland.

Compulsory voting at national or sub-national elections was introduced around the turn of the 20th century in places like Belgium, Switzerland, Spain and Argentina. In 1915 Queensland was the first Australian state to introduce the electoral practice and in fact was the first jurisdiction in the British empire to do so, but outside Australia, which introduced the measure federally in 1924, nowhere else in the so-called English-speaking world followed our example—at least not until more recently. Britain has not seriously considered introducing compulsory voting, although some MPs there are wondering about it after their May general election. The United States, which in the past eagerly adopted some of our electoral practices like the secret ballot—or the ‘Australian ballot’, as the Americans once called it—has never really contemplated compulsory voting either, despite President Obama’s recent reflection in front of an Ohio audience that it might be ‘fun to try’.

In Australia, the notion of compelling citizens to vote on election days was promoted before and after Federation, most notably by Alfred Deakin, the nation’s second prime minister, but a vocal movement opposed to the idea, whose numbers included HR Nicholls and other leading figures of the Victorian establishment, proved enough for compulsory voting to remain a more or less sleeper issue until it surfaced in this state. As a political historian the question for me is not so much why introduce compulsory voting, but more why Queensland and why in 1915? I would approach those questions from firstly specific and then more general perspectives.

To begin with, Digby Denham, as Paul has already mentioned, was premier at the time that this parliament debated the introduction of compulsory voting, legislated in 1914 by his Liberal government and put into practice the following year. Denham had used law and order concerns as a pretext for his government’s re-election in 1912 after controversially ordering a police and Special Forces crackdown on striking tramway and other workers in Brisbane in January of that year. The Liberals subsequently lost several Brisbane seats at the 1912 poll but found their support boosted in rural and regional areas. By 1915

Denham's administration was confronted by an active and organised union movement that was still hostile to that government. Ostensibly, and at least as the unions saw it, the Premier instigated compulsory voting at the 1915 election to thwart the unions from mobilising Labor voters. The initiative was less about negating electoral fraud—compulsory enrolment, which had been introduced federally in 1912, was meant to see to that—or addressing any particular security or wartime concerns; rather, it was an attempt to maximise the middle class non-unionised vote. However, as a political manoeuvre it backfired spectacularly. Until January of this year the 1915 poll was the only election in Queensland where the Premier was defeated in his own electorate, with Denham's Liberals losing office to TJ Ryan's Labor Party. The huge election defeat saw the government lose half of its seats, and the conservative forces in Queensland remained on the opposition benches until 1929. It should be noted, though, that this episode was not enough to later deter the Bruce-Page Conservative coalition government in Canberra from introducing compulsory voting in time for the 1925 federal election.

Speaking more generally, and giving some context to Denham's actions, since separation over 150 years ago Queensland has earned itself various reputations, one of which in the latter part of the 20th century could be characterised as a hesitant or even intransigent approach to reform. This applies to both sides of politics. Queensland, after all, still retains the harshest criminal statutes outlawing abortion of all Australia's jurisdictions, but this should not overlook or take away from the fact that, since Federation, Queensland has many times led the way in pioneering—and I use that term advisedly—groundbreaking reforms and far-sighted initiatives. We might recall that as well as ridding itself of its upper house in 1922, Queensland's government in that same year abolished the death penalty several decades ahead of the rest of the country and probably to the relief of some nervous former upper house MPs.

Like teenagers at schoolies week or footballers on an end-of-season trip abroad, political leaders in Queensland have at times seemed less constrained by the prospect of disapproval or sanction from higher authorities, especially when those authorities, be they colonial masters in Sydney or a federal government in Canberra, were so very far away. The state's location has in the past perhaps afforded its political class the licence to behave a little more daringly or to push the boundaries of reform that little bit further than might be the case in the distant southern capitals. It can be said of Queenslanders that we labour not so much under the tyranny of distance, but in some respects we capitalise on the liberty of distance. It was Digby Denham, let us not forget, who in 1912 contemplated inviting troops from a passing German naval ship to assist in breaking the Brisbane general strike when the federal government in faraway Canberra rejected his request to send armed forces to Brisbane as impractical.

In considering the introduction of compulsory voting here a century ago, rather than 'why Queensland?' we should perhaps ask instead 'where else but Queensland?'

Prof. SCOTT: Thank you very much, Chris. Dr Tracey Arklay was at the University of Queensland but is now presenting as a lecturer at the School of Government and International Relations at Griffith University. Her scholarly interests include federal and state politics, parliamentary analysis, political biography, disaster management and electoral campaigning—and they are separate. She has authored two books and one internationally cited monograph on Queensland and Australian politics. Finally, she too is a research associate of the TJ Ryan Foundation.

Dr ARKLAY: Thank you, Roger. I am going to begin by saying right up front that, like around two-thirds of Australians, I support compulsory voting, but in preparing for tonight I took some time to reflect on what I actually like about our compulsory voting system. Was it habit, or was there something more? For me, perhaps the most important aspect of compulsory voting is the fact that it means that every eligible voter, whether they are rich or poor, young or old, conservative or left leaning, have to be considered at least in some measure by the party in government when they formulate their policies. This is something that is stated often but I think not emphasised enough.

International academic literature points to how voting suppression in the form of voter ID, for example, when combined with voluntary voting, means that a large group of voters in the United States, say, can be ignored by policy makers. It does not take a brains trust to work out who these disenfranchised voters might be. They are more likely to be black, poor, migrants, certainly those without power or money to influence. As one scholar wrote way back in 1947 talking about the American system—

... politicians and officials are under no compulsion to pay much heed to classes and groups of citizens that do not vote.

Compulsory Voting Discussion Panel

Along with the fact that compulsory voting has traditionally been linked to higher levels of satisfaction in terms of how Australians regard the state of their democracy, they also benefit from the fact that parties have to consider every voter to some degree in their policy formulations.

Compulsory voting, public funding and regulations such as those that monitor private donations to political parties minimise the likelihood of corruption or excessive influence being exerted by groups such as what we see with the National Rifle Association's influence in American politics, for example. The time, effort and cost in getting the vote out in other nations, as Paul mentioned before, can be spent on more fruitful things such as hopefully better policy formulation. A huge factor for me in supporting compulsory voting is the electoral administrative arrangements that we have, and, I would argue, is a result of compulsory voting.

Compulsory voting has given us such things as mobile booths that travel to remote locations, absentee and pre-poll voting, good provision for the sick and elderly and the provision of polling places for residents overseas. Our electoral commissions are headed by electoral officials who report to the parliament—not to the government of the day—and whose tenure is not able to be influenced by partisan concerns. In fact, our electoral system, as noted by academics Ian McAllister and Malcolm Mackerras, is the most voter-friendly in the world. How could anyone who turns up to vote on a Saturday afternoon at their local school or hall deny the particular excitement that only voting day can bring?

I will grudgingly acknowledge that there are some who argue that voluntary voting is undemocratic, that it makes for lazy politics and complacent parties. Antony Green, in speaking about Senate ballot papers, has also suggested that it may lend support to the major parties due to the fact that apathetic voters are less likely to tick 100 boxes down the bottom and are more likely to vote '1' in the line above and therefore give preferences to whoever the party that they ticked '1' for decides to vote for. But despite that, I remain a supporter of compulsory voting.

Finally, those against compulsory voting often argue that it is an assault on personal freedom. I remain unconvinced and would argue that citizenship is a right and a privilege, and compulsory voting every three years is not too hard a burden to bear. If I had overheads, I would have introduced a slide right now that is an ongoing election study conducted by the ANU which suggests that, despite falling levels of trust in relation to political parties, 45 per cent of Australians still strongly support compulsory voting; another 25.2 per cent favour it; a relatively small 16.9 per cent support voluntary voting; and an even smaller 12.8 per cent strongly support voluntary voting.

So at the moment compulsory voting seems safe, but I do not think we should be complacent. Recent attempts, for example, to change electoral arrangements in Canada, a country which, like Australia, was noted for its electoral integrity, are worrying. In 2014 the Harper government introduced the Canada Elections Act and other acts which, among other things, limited the capacity of the Chief Electoral Officer to communicate directly with the public, effectively reducing his educative role which is an important aspect of getting voters to vote and informing them about the voting process, especially when voting in voluntary systems. The legislative change has also removed the enforcement arm of Elections Canada, which is like our electoral commission, and instead charged responsibility to a government department while at the same time disabling the Commissioner from compelling witnesses to testify, which may impede future investigations of electoral fraud. Many academics around the world complained about this and many of these things were overturned subsequently, but nonetheless it was the intention of the government to do this.

To conclude, in my arguments in support of compulsory voting I am going to turn to Professor Lisa Hill from the University of Adelaide, who wrote a conversation piece which argued that Australians have no reason to complain about compulsory voting. Compared to the USA we have short voting queues and we have to fill out an enrolment form only once because the Australian Electoral Commission takes care of the updating after that. In regards to complaints about the loss of freedom she asks—

But what about the real-life cost to freedom of being poor, homeless, unemployed and under-employed?

Then she continued—

In every advanced voluntary system the world over, the less likely you are to vote, the more likely you are to experience one, some, or all of these things.

Compulsory Voting Discussion Panel

But in compulsory systems where voting is universal and socially even, government attention and spending is more evenly distributed. Simply put, there is less wealth inequality in compulsory systems.

We all like to complain about politicians and politics but things are much better here than many Australians realise. Compared to most voluntary regimes, we not only have less social inequality, but lower levels of corruption and higher levels of satisfaction with our democracy.

Unless we want Australia's electoral democracy to wither and become the exclusive domain of older, richer elites, we had ...

better stick to compulsory voting.

Prof. SCOTT: Thank you, Tracey. Graham Young is not an academic and he is not a member of the TJ Ryan Foundation. Graham Young in fact is the executive director of the Australian Institute for Progress. He was also a former state campaign chairman and electorate strategist for the Queensland Liberal Party. He is well-known in academic circles for his pioneering e-journal *On Line Opinion*, which is widely consulted. He is a political commentator, particularly on radio, and market researcher. Between 1986 and 2008 he was involved in property development and prior to that he worked in the finance industry, particularly real estate finance. During that period he was federal policy vice-president of the Young Liberal Movement in 1982 and chairman of the Queensland Liberal Party's housing policy committee between 1986 and 1994. For a different perspective, welcome.

Mr YOUNG: Thanks, Professor Scott. It is an interesting issue, compulsory or non-compulsory voting, and it is one that I have bumped up against in practicality in terms of debates within the Liberal Party. I think Paul was quite right to observe that these sorts of things do not come into place through matters of high principle; they come into place by trying to do the other guy over.

I do not know what happens in the Liberal Party these days—for those of you who do not know, I was expelled a few years ago for doing things like this—but about 20 years ago there were some arguments about these matters and, broadly speaking, it was a left-right divide, as it sounds like it might have been in Victoria with HR Nicholls on one side and Deakin on the other. The right thought that there was some advantage in non-compulsory voting, but it was couched in the rights argument terms. I think I agree with Tracey: I do not think the rights argument really holds up particularly strongly. When you live in a society that levies you somewhere around 30 to 40 per cent of your income in taxes, being required to turn up to a polling booth about once a year and sign that you have been there—and possibly not even put the ballot in the box—does not seem to me to be a huge infringement of rights, so I do not think that takes you too far. The practicalities that were argued in the Liberal Party were, on one side: yes, lower-class voters would be less likely to vote and you might get an advantage from that. However, something which has not come up tonight was the other argument, which was: yes, but the ALP has the unions and they have a lot more manpower, and when you have these non-compulsory voting systems the big effort is to get the vote out. And if you do not have the manpower to get the vote out to put them in cars and drive them to polling booths, it might not give you the advantage that you think you are going to get.

I think when you look around the world and at the research in the US to the counter, there is not really a huge difference between the sorts of results you are likely to get under either system. You find very high levels of satisfaction with democracy in countries that do not have compulsory voting just like you do in societies like ours that have compulsory voting. I think that electors are quite able to adjust themselves to the situation that they are in and political parties adjust themselves. You tend to split the market down the middle however that market is formed.

Thinking as someone who has run political campaigns, I could get a similar result to what I got on a compulsory system in a non-compulsory system. You do your arguments differently. You would run your campaigns a bit differently. Your resources would go in different areas, but I do not think in the end it would give you much of a different result. I guess I am ambivalent in practical terms about whether compulsory or non-compulsory is a better system. At the end of the day I am not really a cold political manipulator. I got into the business, as most people get into the business, because you want to make a difference, and you want to make a difference under a fair system. That difference will be democratic if it is under a fair system. What a fair system is depends on a lot more than how you vote. First past the post gives you a result. We have the Australian system, which is not in too many countries, of preferential voting which enables you to make the Malcolm Mackerras calculations. You cannot do them in England. You cannot say what the two-party preferred vote is there; it is meaningless. But to suggest that voters in England do not exercise their vote to take account of what might happen with multiple candidates is to misrepresent the average intelligence of the elector. They know what is going on. They know that in this seat if they vote for a Liberal Democrat it may well mean that a Labour member is going to get up. They do not want that to happen, so

they will end up not voting for Liberal Democrats and Liberal Democrats probably will say, 'We're not going to run in that seat. There's no point.' So you get preferences, but you get it by a different calculus. I think the same thing happens when you have non-compulsory voting.

A lot of academics worry about what they call the democratic deficit, that not a lot of people turn up to vote. I can tell you some countries where they have voluntary voting and they get almost 100 per cent to turn up. They are countries like Iraq and Afghanistan. You should ask yourself: why do they get 100 per cent turnout? It is not that they are all very intelligent, well educated, rich people. It is because the place is not run well. If you get a place that is run well, a lot of people will say, 'It does not really matter whether you vote Democrat or republican. I'm going to stay at home. I've got better things to do on a weekday than going out there because my fellow citizens will make a decision that's going to be good enough for me and my preferences are elsewhere.' I think those of us in the political system often put too much weight on the mechanics of what actually goes on and we weight that more importantly in voters' minds than what is actually important to them, which may well be something entirely different, of perhaps domestic political significance but not necessarily of national political significance because that is getting done well enough.

There is an argument that under non-compulsory voting you get a polarisation of political campaigns. People say in the US the primary role of a campaign is to get out the vote. I remember we had some consultants come over in the eighties from the US. They had this thing called GOTV. I thought, 'What's this GOTV? Is it a special sort of advertising?' Then I realised it stands for get out the vote. Over there in some of the better organised places they have people who are captains of particular blocks and they know who their likely voters are and who are not. Their job on the day is to go around and place door handle things to tell people to remember to get out and vote. If you are not likely to vote for them, you are not going to have that door hanger on your door. In the US system, a lot of it hinges on getting your people to turn up. At the end of the day, what motivates voters? You are going to hate me saying this, but fear is what motivates voters more than anything else—fear and greed and then sex. So if you are a good-looking woman, because men are more motivated by sex, there is a slight benefit to running in a seat. Basically it is greed—what am I going to get out of this—but more to the point, fear: what are the bad things that might happen if I vote for this other person? That does not depend on whether it is compulsory to vote or whether it is non-compulsory. Most sorts of levers work, whether it is compulsory or non-compulsory.

Perhaps the clincher as to whether it makes a difference or not is that, when you are polling, you find a large percentage of people will not tell you how they are going to vote. However, if you allocate them in the same proportions as the rest of your sample, guess what? Nine times out of 10, that is what happens. If they had not voted, if it was non-compulsory voting and they were not sufficiently interested, you would probably end up with the same result. I cannot prove that, but it suggests to me that that is probably what would happen. As I say, I am ambivalent about it. I do not know that it gives you a better democratic outcome. There are some practicalities on both sides that might benefit one party over the other, although I suspect that the unions might be stronger in the imagination than they are on the ground. I am happy with the system we have got. At least I know what the rules are and I know how to work them.

Prof. SCOTT: Thank you very much for that blast of reality. Moving on, the last speaker is Graeme Orr, who is a professor at the University of Queensland in the law school and specialises in the law regulating politics. His books include *The Law of Politics: Elections, Parties and Money in Australia* and this April forthcoming, *Ritual and Rhythm in Electoral Systems*, which sounds fascinating. Graeme is also international editor of the *Election Law Journal* and guess what? He is a research associate for the TJ Ryan Foundation. Graeme, over to you.

Prof. ORR: We are actually four years too late for this. The centenary of electoral compulsion was 1911 to 2011. The ghost in the machine, the soul of the franchise, is nothing without the skeleton of electoral enrolment. The egg of electoral enrolment, compulsion, came before the chicken of compulsory voting. It was Andrew Fisher, a Queenslander, who brought it in largely driven by a desire on behalf of the electoral authorities to achieve the most comprehensive roll, save money and not have to send the constables out doorknocking to try to individualise and put the responsibility on the individual to enrol rather than it be a partisan issue. In New Zealand they picked up on compulsory enrolment as well.

As Paul and Chris have said, the centenary of compulsory voting in Queensland curiously is also the centenary of the last Liberal administration of Digby Denham before the recent Newman premiership. It is doubly curious because opposition to compulsion today largely comes from libertarians but particularly some neoliberals but also some left libertarians. As Paul Reynolds pointed out when the right wing of Australian politics imported compulsory voting from its foothold in places like Belgium in 1915 in
Brisbane

Queensland and 1924 in Canberra, they did it not just afraid of declining turnout affecting governmental legitimacy and stability, but they also saw their Labor Party opponents as having unfair advantage in turning out its supporters given that the union movements had—in those days at least—many tendrils and volunteers. It was not just conservative parties at work; Prime Minister Billy Hughes then brought in compulsory voting for the second conscription referendum because he wanted to rethrow the dice and thought that if you changed the rules you might change the outcome. He was wrong.

Curiosities aside, I come to praise, to demythologise and to bury compulsory voting in equal parts. First to praise—I want to praise compulsory turnout, as we should call it rather than voting because of course you can write obscenities on the ballot—and maybe you should if that is how you are feeling about the system. It is important to include people but not require, to force them, to have a choice they do not have. Praise compulsory voting turnout for elections—we are all in this society together. Every elector has a useful opinion, as Tracey suggested, on the heuristic—to use the jargon—questions that tend to decide elections, ‘Are we heading in the right direction? Are you better off than you were three years ago? Do you trust the guy in the budgie smugglers or the ranga?’ These are representative elections. We are all to be represented. As Chief Justice Gar Barwick said in the case of *Faderson v Bridger*, which is one of three cases unsuccessfully attempting to challenge compulsory voting in Australia, ‘We all have to have an MP. A government is like death and taxes’, as Graham said, ‘So parliament is entitled at least to try to control us to make a choice for our representatives.’

Secondly, to demythologise—I would suggest that compulsion has ‘small c’ conservative, not just progressive, effects. Progressives—I work with a few of them—channelling Tracy’s instinct, reflexively seem to assume that compulsion is good for them. Conservatives reflectively seem to assume it is bad for them, but is it? Certainly in the long term, as a World Bank study in Latin America shows, countries with compulsory turnout—in Latin America at least—seem to have more inclusive socioeconomic policy outcomes, but obviously there is confounding cause and effect. Each society and each era has to be seen on its own terms. In the middle of last century, the United Kingdom and New Zealand were at least as egalitarian as Australia and they did not have compulsory voting. In early 21st century Australia where we sit, my hypothesis is that compulsory voting is a ‘small c’ conservative method—I don’t mean ‘capital C’ conservative outcomes, I mean ‘small c’ conservative method. It turns out apolitical suburbanites, none of whom are here tonight so I can call them that, just as much or more so than it turns out marginalised youth and so on. Those suburbanites include swinging voters who, in good times—most of the last 30 years—plump for the status quo unless they are really grumpy. This stabilises the system—does not necessarily legitimise it—and hence it may reinforce incumbency: the LNP nationally, Labor at the state level. This is not an absolute rule, of course. When governments grow far too long in the tooth or grumpiness levels soar, as they have at the moment, compulsion may actually magnify volatility, as in New South Wales and Queensland in 2011 and 2012. I think they are exceptions rather than the rule historically. Another Chief Justice, Murray Gleeson, more recently twigged to this when he wrote in a judgement in the High Court, ‘If people are compelled to vote and are not convinced of the necessity of change and are perhaps not clear as to reasons for or consequences of change, then it is hardly surprising they vote for the status quo.’ If we did dump compulsory voting, we would join the Netherlands amongst a handful of nations to retract compulsion.

Finally, three, I come to bury compulsory voting not for elections but for referenda. Compulsion should not be part of referenda, especially constitutional ones. If in doubt, kick it out is a recipe for constitutional drought. Why should we demand that each elector has a sensible view on constitutional law? Many of my students, apart from those in the front row, do not have intelligent views on constitutional law. Many reforms in referenda are technical. Judges retiring at the age of 70 was the last successful national referendum in Australia. Many other referenda are important but deal with intergovernmental issues—federalist powers and so on, quite removed from people’s lives. Sure, some constitutional reforms are identity issues. The republic vote was largely like that. But as Scotland’s independence referendum recently proved, provided the issue has resonance for people, people will turn out. They would have turned out for the republic referendum, if not in the huge numbers they did for Scottish independence.

Would voluntary referenda delegitimise constitutional reforms? Why? The Australian Constitution itself was voted on in the 1890s under a restrictive, male dominated and voluntary franchise. Turnout in some of the colonies barely reached 50 per cent of white men, but we do not think the Constitution is any less the law because of it. If you want to hear more of these arguments, I have put up a paper on the TJ Ryan website where I developed these ideas a few years ago.

Compulsory Voting Discussion Panel

Prof. SCOTT: Thank you very much. The floor is now open for discussion. We will take anybody who wishes to get behind the microphone and ask a question.

Dr WEEKS: Thank you all for your interesting comments. I think the most interesting place I have ever been to and had to defend Australian compulsory voting was in Japan last year. In December I was giving a lecture on John Locke and the social contract to some Japanese undergraduates. I ended up getting into this very deep discussion with a Japanese student. He said, 'Surely compulsory voting is against democratic principles,' and I said, 'But look at it as part of the social contract that you have to be a part of that.' It was this really engaging discussion—and it was all going on in Japanese. I was terribly frightened I have to say. He just could not understand. Japan had just had their election in December and it was a really interesting discussion to have in that regard. I am going to trip over this microphone as we work our way around the place. John, I think you have a question.

Mr PYKE: A comment and a question for Graeme Orr. Firstly, the comment. You said, of course, that you have the option of writing obscenities. If anyone ever wants to vote informal—and I have done it once in my life; I was just totally disgruntled with all of the candidates—better than writing 'F him and F her too' which I have seen when scrutineering, is to treat it like a referendum and write a nice little 'No' in each box.

Prof. ORR: Can I just comment on that? I do not know if you saw the tweet that was going around, but someone in England drew, can I politely say, a male appendage in the box and it was counted. It was clearly a male appendage—a member and voting for the member—but under British practice, you can put a tick, a cross; it does not matter, first past the post.

Mr PYKE: I have seen them drawn all over the ballot paper, but never neatly in a box. Question: if we did have voluntary voting for referenda—and I can see the force of your arguments there; some referenda are so technical that really why should you force everybody to vote—would you consider a majority of those voting to be approval of the proposal for change or would you suggest that there should be a majority of the enrolled electors? It seems to me that if you have a 60 per cent turnout and 31 per cent vote yes, it is a reasonably poor endorsement of the proposal for change.

Prof. ORR: On that reasoning the Australian Constitution should have been sent back from Whitehall until we got over that magic figure. No, a majority is a majority as long as it is a fair and open system and everyone not only knows the ground rules but everyone has an equal chance to vote, which I guess is Tracey's point. One thing about compulsion is that it has fitted in with the kind of Benthamite approach of Australian electoral commissions and legislators to make voting reasonably accessible.

Prof. SCOTT: Do other panellists want to comment on the notion of voluntary being applied in the referenda?

Dr REYNOLDS: I must say that I had never thought about that. I think voluntary, or compulsory, is a bit beside the point for national referenda, because the double majority effectively torpedoes. I think Gareth Evans once said that there had been only eight changes to the Constitution by referendum since Federation. All but one of them was trivial. The one that was not was in the 40s over welfare.

Mr YOUNG: I am not sure why you would apply a different standard to referenda. I did not quite buy the argument that referenda is somehow more technical in making a decision in a general election. I would have thought all the factors that you have to balance in a general election are far more difficult to decide than whether High Court judges ought to retire at 75, because they are mad, some of them. I would have thought that most of those questions that come up at referendum were fairly easy to decide. So if compulsory voting is good for one sort of democracy, I cannot see why it should not be good for the other. I do not see the basis for differentiating.

Prof. ORR: You would only have to look at the Republican cases and see that the no case cleverly left a lot of its pages blank and just said, 'If in doubt, vote no. If in doubt, kick it out.' It is not analogous at all, because unless the potential list has 'None of the above' on the ballot paper and have a kind of opt out, then in referenda you are asking people to make decisions in a deliberative fashion about reshaping the fundamental law of the land and expect them to have reasoned decisions to make about things like federal inter se powers, as we call them; whereas I think everyone—and maybe this is a bad metaphor—but a dog knows whether it has been kicked or not. Everyone—the least literate voter, the least tuned-on-into-politics voter, the apolitical suburbanites—have an equal voice in a question like, 'Are we better off than where we were three years ago?' 'Who do you trust of these personalities to govern us,' even if you think that they are degrading questions to reduce elections towards.

Mr ROUND: On that issue, I have often thought that we would have more honest referendum debates in Australia if you had an option, 'yes, no, abstain'—and I see all the former UQ student politicians groaning at that, because that led to some discussion about 20 years ago. I dissent from my brother John Pyke here with over 50 per cent. Something like 40 per cent is standard in countries like Denmark. If you have a proposal defeated with 39 per cent yes, 23 per cent no and the others turning out and voting abstain or 'Don't know', I think that we would have a more honest result than what we do at the moment, where right up until six o'clock on closing day the likes of Tony Abbott go, 'Look, you can be quite in favour of this idea but, hang on, if you look at clause 23 of section 28 it says a president is in for five years. It should be in five and a half years.' The moment the votes are counted and it goes to the defeat you have David Flint out there saying, 'The Australian people don't want a republic. They have clearly repudiated it,' I think you would have a much more honest result if you had a quorum of turnout and people could vote, 'Not sure, whatever,' and proposals are defeated for failing to reach that hurdle rather than by what to me are quite frankly fake no votes.

As a footnote to that, I would love to see a UK referendum on electoral reform, where the referendum is actually run on a first-past-the-post basis. Option A is some form of proportional representation. Option B is House of Commons first past the post, 600 members. Option C is House of Commons first past the post, 700 members. Option D is House of Commons, first past the post 400 members and watch the Tories fall in knots over which of the three first-past-the-post options they should vote for so that when PR gets up with 35 per cent of the votes in favour, that is democracy, they got the most votes.

Prof. SCOTT: Before I take the next question, I would like to throw in a question of my own for the panel, which really relates to the comments we have just had. Does the notion of compulsion also carry with it a particular form of preference, because it does seem to me that first past the post is forcing people to choose a government. They do not really know much else and they do not need to know much else, because it is first past the post.

I come from another sort of edge of the world in Tasmania, where we have taken that to the logical extreme of multimember PR at the local level in Tasmanian elections and we have quite happily lived since 1906 with the Hare-Clark system, which is almost designed to stop you appointing a government. You have to be extraordinarily lucky in Tasmania to have a workable majority and frequently we have been ruled by Independents. I grew up thinking the Independent was the right way to go. A guy called Wedd, who ran a service station, held the balance of power in the Tasmanian parliament for a number of years. People got in his ear and talked to him and he would decide what was going to be the outcome. That is a function of proportional representation. That allows you to go and pursue a particular objective, but it does not necessarily mean that you get 'strong government'. So I would be interested in comments. Is compulsion also caught up in a particular notion of preference voting? If you go for preference voting, why do you not go for multimember proportional representation?

Dr REYNOLDS: I think that Digby Denham thought that that was the case and I think his supporters at the time in 1915 thought that that was the case—that compulsion would activate their voter base. I do not think it does, Roger. I think political socialisation, even in this attenuated party-ID era, is much stronger than voting system. We know that people are socialised by family, by schools, by social influences and particularly by peer groups. So I do not think that that is anything more than peripheral. As the last political sociologist in captivity, that would be my point.

Prof. SCOTT: In Tasmania, of course, we are all related to each other. So it is a very narrow field.

Dr REYNOLDS: So that is the political socialisation, yes.

Mr MUIR: I have just a comment initially and then a question. My comment is that I am very strongly in favour of compulsory voting but I think I am kicking against an open door on that one. The question that I would like to ask the panel to consider is one of the reasons that I think that compulsory voting is important—and we have it through serendipity as has been explained tonight—is whether we have people engaged enough in our democracy and our country and whether compulsory voting has a tendency towards more engagement than otherwise. My observation has been that where you have voluntary voting the turnout in Western countries is around 40-odd per cent. I know that was the turnout in the voluntary vote for the republic teams that led to the convention. My observation is that in the United States and in the UK it is around that mark. That indicates to me that you have a large slab of your population who are disengaged with the democratic process. That to me, quite frankly, is rather worrying. So my question is: what does the panel think? Is there any tendency to engage more by forcing people, in effect, to go to vote? I might just

say in context that my observation also is that there is a tendency, I think, for people generally in Western countries, and maybe in others, to not really switch into the political process, to be disengaged. So it is in that context that I ask that question.

Prof. SCOTT: Comments from the panel?

Dr REYNOLDS: First of all, I do not think that those figures are in any way accurate. In New Zealand, the turnout is 75 per cent to 80 per cent. In the last British election, the turnout in some of the Scottish seats was 85 per cent, which is incredibly high under voluntary voting.

But I do think that David has a point. I think that the point about engagement can be argued both ways. Under compulsory voting people tend not to be engaged because there is no sort of edge to it, or you turn up, you vote, and that is it. In voluntary voting areas, with people who are disengaged, as has been pointed out by previous speakers, you have a more unequal society and more marginalised people and they by definition are generally disengaged. So I think that it is a good question, David. I just do not think that there is a definitive way to answer it. That is from my perspective, anyway.

Prof. SCOTT: When we use the term 'engagement', we mean turning up at a polling station?

Mr MUIR: I guess that is indicated, but what it means is that people have been perhaps forced to actually think about who their local candidates are. They may not have any awareness of that. My question is whether it is creating some awareness and some education about, 'Yes, I do have so and so as my local state member and someone else is my federal member,' because I think a lot of people just do not have that awareness and education and they would be greater in number without the compulsory. I guess that is the sort of the thing.

Mr YOUNG: Could I make a comment about what goes through voters' heads when they are voting? It is probably going to come as a shock to most of you, but it is not about policy. I do online qualitative polling and I have about 13,500 around Australia who from time to time fill in my surveys. Unlike Newspoll, I do not give them a list of issues and say, 'What is most important here?' I just say, 'Tell me.' You would be surprised at the things that you might think are not significant that motivate them. We are talking about people who are spending on average 15 minutes to fill in one of these surveys. So you are not talking about people who do not pay attention to the political process; you are talking about people who pay enough attention and who think that what I am doing is worthwhile enough to give me their time for nothing and still it is often about personalities or something. You look at it and you think, 'But that is completely irrelevant,' but that is what they are making their minds up on.

So when you see that sort of stuff, maybe the decision not to come to a poll is as valid as a decision to go to the poll and say, 'I am going to vote against them because I do not like the colour of their hair,' or, 'I do not like the colour of his budgie smugglers.' There are all of those sorts of things. Because of the way we view it, the prisms that we tend to view these things through, we think in abstract terms of who is best for running the country et cetera. But a lot of voters do not think that way at all. My analysis of the last Queensland election is that it was a big dummy spit, because people do not like Campbell Newman. It was not about the two parties; it was about Campbell Newman primarily and that was a personality vote. They did not like the way he carried on.

Mr BENNETT: I am an LNP returned member. It is nothing about Campbell here tonight, of course. I want to pass on some observations from a re-elected member and some comments, if I could indulge, and thank you very much for putting it on tonight. A couple of things that resonate in my electorate, a rural electorate in Central Queensland, is, of course, about the democratic right of Queenslanders to vote. Of course, Anzac Day has come and gone, and we have heard that patriotic view about people have fought and died for this right.

One of the other things that has come loud and clear—because I do not really have an opinion; my constituents are my opinion—is about the risk of course with non-compulsory voting about self-interest groups and how we could galvanise with a ballot paper of 10 candidates. Single issue, rec fishermen could get 17 per cent; single issue parties could emerge through our democratic process. I welcome some comments around how we would see that emerging?

Prof. ORR: Well, they have, in the Senate at least so certainly incentives are built in deliberately or unconsciously into the structure of a voting system. There is no doubt about that.

Mr YOUNG: I think that is an issue of whether you have got preferential or first-past-the-post, but then when you have got first-past-the-post people tend to be a bit sensible about whether they put themselves up as a candidate or whether they vote for those minor party candidates. So you would find quite different behaviour, I am sure, between a preferential system and first-past-the-post in terms of what percentage of the vote those minor parties would get because enough people would think, 'Hang on, if I give them my vote, then that's a vote I can't give to someone else and I actually want that person to win more strongly.' When it comes to that, in Queensland we really have a hybrid system. We have got preferential and first-past-the-post, and where your party stuffed up last election was you ran it like first-past-the-post and the ALP ran it like preferential and most voters thought it was a preferential election and that is how they voted and that is one reason you lost.

Dr REYNOLDS: Can I come alongside that particular point that was just made. I did the ballot paper survey for the Electoral Commission in 2001 and it was quite clear there that the rate of exhaustion was rising. In fact, it was even more than the ECQ knew because the winner and the runner-up ballot papers were also counted for exhaustion rates, whereas of course they are not in the official returns.

Prof. SCOTT: There might be some people who do not understand exhaustion rates.

Dr REYNOLDS: This is optional preferential voting. I spoke to Professor Colin Hughes when he was in EARC, and of course all of the electoral legislation had his fingerprints all over it. I asked him why he introduced OPV, optional preferential voting, because we were not expecting it, it came out of left field. Colin just said, 'It is morally incontestable that people should be forced to vote for candidates they don't support, end of story.' What happened, following the earlier point, at this election is that trend of exhaustion rates was reversed dramatically—I repeat: dramatically. In some electorates it was an exhaustion rate of between 20 and 30 per cent, whereas in previous elections it was around 50. So that is one of the sleeper issues about 2015. I agree with the Newman comment but that was an example of how dramatic it was—that people were determined they were going to fill in every square.

Dr ARKLAY: You saw that too with the rapid rise of registrations in the lead-up to the election as well. A lot of young people suddenly registered to vote.

Prof. SCOTT: This will be the last question.

QUESTIONER: About 50 years ago I was involved in getting out the vote in Greensboro, North Carolina. Something we have not mentioned today is that we are forced by legislation to register. In some of those countries that you have mentioned, you have to go around and actually get people to put themselves on the ballot paper. I just thought that this contributes to our electoral system.

Dr REYNOLDS: You don't have, as you have in the United States, where their federal elections are run by local authorities. That is just the most grotesque situation I have ever heard of. It is like the Brisbane City Council running federal elections in Queensland. We at least have a statutory authority, and for that you can thank Mick Young, and paradoxically the guy who wrote most of that legislation was on Mick Young's staff was Wayne Swan. Go figure.

Prof. SCOTT: This is the very last question.

Mr HINCHLIFFE: Speaking of Wayne Swan, I am Stirling Hinchliffe, member for Sandgate and Leader of the House happily in the 55th Parliament. I thank the ASPG for putting on this event; it is certainly a notable milestone to acknowledge and a very important one to discuss and understand the implications of. I had the pleasure in the last sitting week, Steven, to contribute to the debate around electoral law amendments and made reference to the Digby government's motivations and got a quite interesting response from the other side of the House when I said it was motivated by fear of unions.

I guess in contrast to Steven I am very much a returning member, after being rudely interrupted, and returning to the parliament. I wanted to raise the issue, and as Graeme Orr made mention of I very much highlight and always explain our compulsory voting system to people by explaining that it is not a compulsory voting system but it is a compulsory attendance system. I guess I know the answer to this to some extent, but I wonder why there has never been a campaign amongst those people who are supporters of non-compulsory voting to campaign for people to attend and not take the ballot paper. It is quite legal to refuse to even take the ballot paper, so why have we never seen that sort of campaign? Is it, as Graeme says, that in essence the real politics is that this does not make a difference and therefore why would you

go down that track? Or is there some other reason why campaigners for such issues have never pursued it?

Prof. SCOTT: Graeme, you can answer it and then Paul will sum up.

Prof. ORR: For a time it was at least federally an offence to advocate informal voting. We had people standing with the name 'Mr Informal'. Mark Latham claims to have helped the 'up-tick', I hate that word, the increase in informal voting by a couple of per cent that we saw in 2010 which seems to be continuing on. We have had certain academics who I have listened to talk about having a 'none of the above' option like they had in Russia. In South Australia for a long time the ballot paper by law said that you were not obliged to fill it in, but I think they have repealed that. If we are going to force people into compulsory attendance, I think it should be certainly law and maybe it should be on the ballot paper that there is no obligation to mark the ballot paper. Certainly, it is important that we measure dissent in some way, as I think what happened in the One Nation period was because of a suppression of dissent and so on. But whether you do that through 'none of the above' or whether you do that through the blank ballot option or just a better education about the right to vote informal, I do not know.

Dr ARKLAY: Can I just add that with the electronic voting, if it ever comes in, they are going to have to put a box or something saying if they want that option because otherwise the computer will not let you submit. You will be told that you have not filled it out properly.

Prof. SCOTT: I think that is an interesting issue in terms of the technology. The notion that you have to turn up and therefore be mobilised is going to go if you can do it on your home computer. I think we have had a fruitful discussion, a very informed discussion, but I will now invite Paul to make a few closing remarks before we finish up for the evening.

Dr REYNOLDS: Thank you, Roger, and thank you for coming. When I proposed to the executive that we have this function to mark the 100th anniversary, they were kind enough to agree that it was a good idea but I did wonder about it further to myself. We had no idea how this would work in terms of numbers and interest. The other thing was that I thought if we did get a good roll-up—and we have, thank you—then it would be an interesting empirical test about how compulsory voting is viewed out there by those who are interested, engaged and so on. I am absolutely astonished that nobody is in favour of voluntary voting. I thought those statistics say those sorts of things but there must be a few activists out there—aka nutters—who would be sort of wanting to wave a flag but that does not seem to have been the case. I think the contributions have been excellent, both from the floor and from the panel. For the record, whilst I am a supporter of, I am not formally associated with the TJ Ryan. So thank you one and all.