

Compulsory voting

why do we have it and does it work?

As the federal election looms, it's nearly that time again for people to head to the polls and vote for candidates they consider competent enough to lead the nation.

People who are enrolled to vote have the distinct privilege of engaging in this democratic process – a system that people in some countries do not get to enjoy. But not everyone sees it that way and some people inevitably some people grumble about our voting being compulsory.

What is it?

Voting in Australia is compulsory, this refers to registered voters being legally required to participate in an electoral poll. This is ideally to ensure that the Parliament reflects the wants and needs of all the electorates.

Compulsory voting was first introduced to Queensland in 1915 by the Liberal government at the time to decrease voter apathy and to give candidates a 'level playing field.' It wasn't until 1924 that compulsory voting was appropriated at a commonwealth level and later enforced in the 1925 election.

Section 245(1) of the Commonwealth Electoral Act 1918, which governs compulsory voting, delegates electors the duty to vote at each election and making a failure to do so a finable offense. But, the term 'compulsory voting' is a little ambiguous and here's why.

The Australian Electoral Act can only enforce compulsory attendance. Once a name has been checked and a ballot taken that is arguably where the civic duty ends.

In a democracy, no electoral law can enforce a compulsory vote because it would breach the principle of the secret ballot. Ballots that are left blank or filled out incorrectly are considered informal and not an infringement on the process. As Mark Latham, Labor's former leader, said in 2010:

"They say voting is compulsory in Australia.

But it's not compulsory to fill out the ballot paper.

You can put it straight into the ballot box totally blank..."

However, Dr. Helen Pringle, senior lecturer at the University of New South Wales (UNSW) points out in *The Australian Journal of Political Science* that to vote is to mark the ballot paper, which is clearly outlined in the Electoral Act.

Under Section 233 of the Act, 'Vote to be marked in private', lays out the procedures that 'shall' be followed when the elector receives their ballot:

1. Except as otherwise prescribed the voter upon receipt of the ballot paper shall without delay:

(a) retire alone to some unoccupied compartment of the booth, and there, in private, mark his or her vote on the ballot paper

(b) fold the ballot paper so as to conceal his or her vote and: if the voter is not an absent voter, deposit it in the ballot box

or: if the voter is an absent voter, return it to the presiding officer; and

(c) quit the booth.

So what happens if you don't turn up to vote?

In March 1999, Victorian resident and mother of four, Melissa Mason was convicted of failure to vote at the 1993 and 1996 federal elections.

Mason was of the opinion that the right to vote should also embrace the right not to vote and believed so much in her convictions that she was prepared to go to jail over them, describing her sentence as a 'fundamental breach of civil liberties.'

But, the Victorian Magistrates Court dismissed her charges, deeming her reasoning sufficient. Which, is apparently all a person needs to get out of not voting.

The Australian Electoral Commission (AEC) will notify enrolled voters who do not attend the polls after each election. They set into motion the enforcement process. The AEC send out a letter to all non-voters urging the recipients

to provide a valid and sufficient reason for not voting or pay the hefty sum of \$20.

There is a time limit on this offer though. Failing to reply with an acceptable reason or flat out declining to pay, is when the matter gets real serious and is dealt with in court. By this stage, if found guilty, the non-voter may be fined up to \$180, plus court costs.

According to the AEC:

“The action taken by the court in relation to fine defaulters may vary depending on the state or territory in which the conviction is recorded, and may involve community service orders, seizure of goods, or a short period in jail. In some jurisdictions the court may have no alternative to ordering a jail sentence for fine defaulters. However, this is a matter for the courts and not for the AEC.”

So, what is a sufficient and valid reason?

Each case is based on ‘individual merit’ but to name a few obvious ones; injury, sickness and even being diverted to save a life or prevent a crime are among some of the reasons that can get a person out of the deep end.

Is compulsory voting a good thing?

Voting is socially accepted and considered a civic duty much like paying your taxes and jury duty. As a result of this, political parties don’t have to work too hard at getting people to the polls, meaning expenses can be used for other important things like community engagement and better policies.

In most democratic nations with voluntary voting, like the United States for example, parties have to convince their citizens turn up, which is a large portion of the campaign battle. It also prompts parties to run campaigns based on fear, because fear is a bigger motivator than civic duty and so everything gets a bit more weird. Considering that in 2012 only 54% of eligible electors in the US actually voted, perhaps it’s not working out too well for them?

In Australia, however, compulsory voting means we are significantly more engaged in the political process by international standards and as a result our government is much more representative of the voters.

Sources:

Media release about Melissa Mason from AEC retrieved from: http://www.aec.gov.au/media/media-releases/1999/Media_Report_Melissa_Manson_99.htm

AEC cases involving failure to pay fines retrieved from: http://www.aec.gov.au/about_aec/Publications/Backgrounders/compulsory-voting.htm

The Australian Journal of Political Science, Dr. Helen Pringle “Compulsory voting in Australia: What is Compulsory?”

**Explainer by Marion Print
Edith Cowan University
Photo courtesy AEC**

