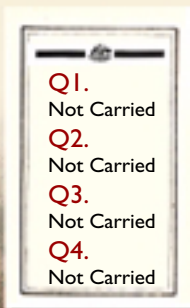
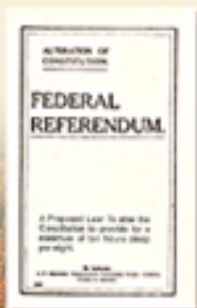




1. To alter the Constitution to provide for 4-year maximum terms for Members of both Houses of the Commonwealth Parliament.
2. To alter the Constitution to provide for fair and democratic parliamentary elections throughout Australia.
3. To alter the Constitution to recognise local government.
4. To alter the Constitution to extend the right to trial by jury, to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any Government.



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# Background

Q1. Parliamentary Terms – The first proposal to alter the Constitution was to make provision for maximum terms of four years for members of both Houses of Parliament.

Q2. Fair Elections – The second proposal was for amendments to the Constitution which would ensure fair and democratic parliamentary elections across Australia.

Q3. Local Government – The third proposal sought to add a new section (119A) to the Constitution recognising local government.

Q4. Rights and Freedoms – The fourth proposal sought to alter section 88 and section 116 and add a new section (115A) to the Constitution to extend the right to trial by jury, to extend freedom of religion and to ensure fair terms for people whose property is acquired by any government.

## Other information

**The timetable**

**The writ**

**Enrolment and voting entitlements**

**Types of voting**

**Scrutineers**

**Reference material**

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## Timetable

Writ issued: 25 July 1988.

Polling day: 8am to 6pm on Saturday, 3 September 1988.

Roll close: 1 August 1988.

## The writ

Whenever a proposed law for the alteration of the Constitution was to be submitted to the electors, the Governor-General issued a writ for the submission of the proposed law to the electors.

The writ was signed by the Governor-General and appointed:

- the day for the close of rolls;
- the day for polling; and
- the day for the return of the writ.

The writ was required to have a copy of the proposed law, or a copy of a statement attached. The statement set out the text of the proposed law and the text of the particular provisions (if any) of the Constitution that were proposed to be altered by the proposed law, along with the proposed alterations.

Notification of receipt of the particulars of the writ was required to be gazetted and advertised in two or more newspapers circulated in each State and Territory,

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including a copy of the proposed law or the statement (if any) and details of places at which copies of the statement were available.

Copies of the proposed law or the statement (if any) were made available at offices of the AEC in that State or Territory and at other places as directed by the Electoral Commissioner.

## Enrolment and voting entitlements

Enrolment and voting were compulsory.

### Those entitled to enrol and vote

All persons 18 years of age and over were entitled to enrol and vote provided that:

- they were Australian citizens\*; or
- they were British subjects\* (other than Australian citizens) whose names were on the roll for a division immediately before 25 January 1984, or on a roll kept for the purposes of the ACT Representation (House of Representatives) Act 1973 or the NT Representation Act 1922.

### Those not entitled to enrol and vote

- Any person of unsound mind who is incapable of understanding the nature and significance of enrolment and voting.
- Any person convicted and under sentence for an offence punishable by law by imprisonment for five years or longer.

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- Any person who has been convicted of treason or treachery and has not been pardoned.
- A person who is the holder of a temporary entry permit for the purposes of the Migration Act 1958 or a prohibited non-citizen under that Act is not entitled to enrol.

\*The definitions of 'Australian citizen' and 'British subject' were provided in the Australian Citizenship Act.

### Special enrolment provisions

Special enrolment provisions were made for people:

- who had a physical disability and were unable to fill out an enrolment form to have someone help them and to apply to become general postal voters;
- who had no fixed place of address to enrol as itinerant electors;
- working in Antarctica to register as Antarctic electors to maintain their name on the roll and to make use of special voting arrangements at election time;
- who were Australian citizens resident on Norfolk Island to claim enrolment for the division of Canberra, or another division in any Australian State with which they had a connection (enrolment by eligible Norfolk Island residents was voluntary but, once enrolled, voting at federal elections was compulsory);

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- who believe that the publication of their address on the roll would put their own, or their family's, safety at risk to apply for silent enrolment so that their address was not shown on the roll#;
- who are Members of the House of Representatives to choose to enrol in the electoral division they represented and Senators to enrol in any division in the State or Territory they represented.

#Silent enrolment is not automatic. Each application is considered by the divisional returning officer and must meet the conditions for silent enrolment.

## Types of voting

### Ordinary

An ordinary vote was a vote cast at any prescribed polling place for the division for which the elector was enrolled.

### Absent


An absent vote was a vote cast at any polling place within the State other than at a polling place within the division for which the elector was enrolled.

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## Postal voting

A postal vote was available to any electors who:

- a) would throughout the hours of polling on polling day:
  - not be within the State or Territory for which they were enrolled;
  - not be within eight kilometres by the nearest practicable route of any polling place open in the State or Territory for which they were enrolled;
  - will be travelling under conditions which will preclude them from voting at any polling place in the State for which they were enrolled; or
  - be a patient in a hospital (other than a special hospital) and be unable to vote at that hospital;
- b) be prevented by serious illness or infirmity from attending at any polling place to vote;
- c) be at a place, other than a hospital, caring for a person who was seriously ill or infirm or approaching maternity and therefore unable to attend at any polling place to vote;
- d) throughout the hours of voting on the voting day be a patient in a special hospital and unable to have their vote taken by the mobile team (see below);
- e) being a woman approaching maternity be unable to attend at any polling place to vote;

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- f) for religious reasons be unable to attend a polling place or vote throughout the hours of polling on polling day or throughout the greater part of those hours;
- g) due to imprisonment; or being otherwise in lawful custody or detention unable to attend at any polling place to vote.

In 1988 there were two types of postal vote:

- written – the application had to be made after the issue of the writ and received by 6pm on the day immediately preceding polling day;
- oral – the application had to be made after the issue of the writ and before the close of polling to a divisional returning officer at his office or to a postal voting officer at an appointed place on a day declared by the AEC by notice in the Gazette or to an assistant returning officer for a place outside Australia at his office at that place.

The certificate and completed ballot papers had to be posted to the divisional returning officer for the division, and reach the divisional returning officer 13 days after polling day. Alternatively the elector could return it to another divisional returning officer, assistant returning officer or presiding officer if the application would not reach the relevant division in time, but they had to be received by them before the close of polling.

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## Provisional vote

Provisional votes were available for:

- Any person who claims a vote at a referendum and whose name cannot be found on the certified list of voters for the division is entitled to a provisional vote. This vote is a declaration vote and the divisional returning officer will check that the person is either eligible to be on the roll or is not on the roll by reason of an error or mistake of an officer before admitting the vote.
- A person who was marked on the certified list as having voted but who claims they have not previously voted may also be permitted to vote, if they makes a declaration to that effect at the polling place.
- An elector whose address is not shown on the roll but must declare the Division for which they are voting for on the declaration.
- 17 year olds could provisionally enrol and could vote if their 18th birthday fell on or before polling day for the referendum.

## Mobile polling

Mobile polling was available for:

- any person who was at a polling place hospital or special hospital either on polling day or in the five days before polling day from 8am to 6pm;
- remote locations – mobile polling could be conducted in places, dates and times as gazetted in any gazetted remote subdivision in the 12 days preceding polling day.

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## Scrutineers

The Governor-General, or any person authorized by him, could appoint one scrutineer at each polling place in each State and the Governor of a State, or any person authorized by him, could appoint a scrutineer at each scrutiny at a polling place or divisional office in the State.

## Reference material

Legislation relevant to the administration of the referendum held in 1988 were:

- Commonwealth Electoral Act 1918
- Referendum (Machinery Provisions) Act 1984
- Australian Citizenship Act.

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# Yes/No Cases

A Yes/No case booklet was printed for the 1988 referendum.

The Referendum (Machinery Provisions) Act provided for the printing and distribution of a Yes/No case booklet. This provision allowed for two 2000-word arguments, one for and the other against the proposed law to be written by a majority of members of both Houses of the Parliament who voted for or against the proposed law. These arguments had to be authorised within four weeks of the passage of the proposed laws through both Houses of Parliament.

These arguments were then forwarded to the Chief Electoral Officer who arranged publication and distribution of these arguments to every elector in the form of a Yes/No booklet no later than 14 days before polling day.

This booklet also had to include a statement showing the textual alterations and additions proposed to be made to the Constitution. Statements in regard to each proposed law could be included as one statement setting out all of the alterations and additions to the Constitution to be made by all of the proposed laws, with margin notes identifying the proposed law by which each alteration was proposed to be made.

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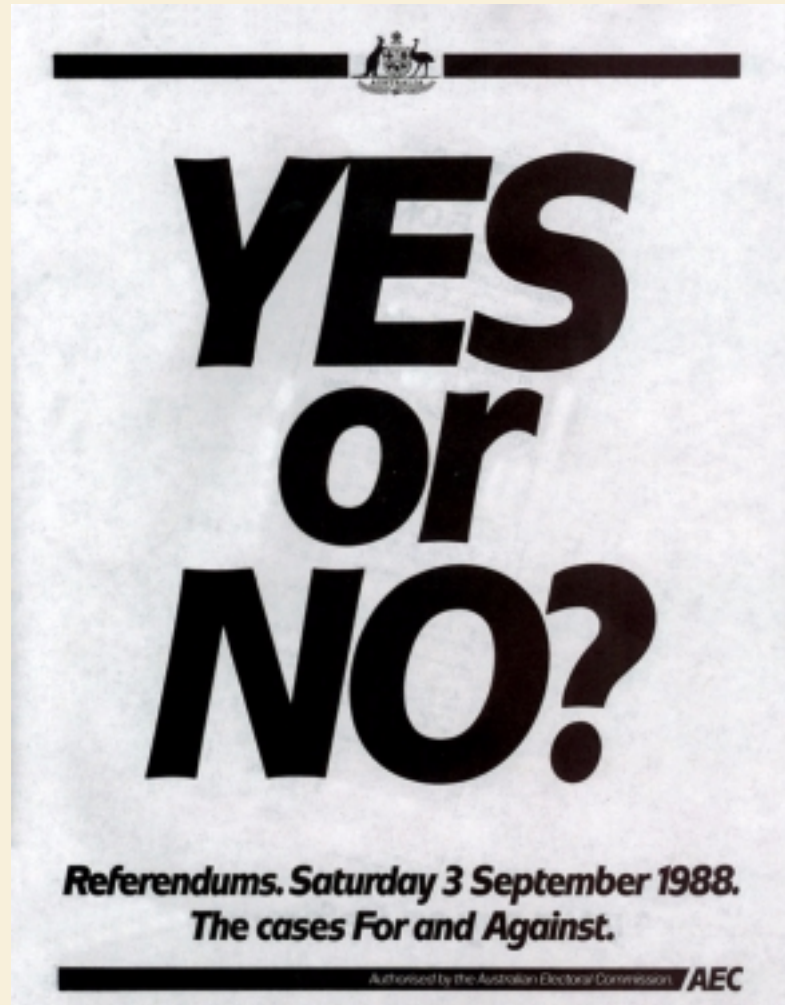
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When there were more than one referendum on more than one proposed law on the same day, all of the arguments for all of the proposed laws were printed in the one pamphlet. A word limit of 2000 words per argument still applied, however, if one of the arguments in favour exceeded 2000 words it was able to be offset by another of the arguments in favour being less than 2000 words. The same applied to the against arguments.



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# Referendum 1988

## YES or NO?

Commonwealth of Australia  
**BALLOT PAPER**  
**SAMPLE ONLY**  
Referendums on  
proposed Constitutional alterations.

**DIRECTIONS TO VOTER:**  
Write YES or NO  
in the space provided  
opposite each of the 4  
questions set out below.

1. A Proposed Law: To alter the Constitution to provide for a 4 year maximum term for members of both Houses of the Commonwealth Parliament.  
[ ]

2. A Proposed Law: To alter the Constitution to provide for the first national Parliamentary election throughout Australia.  
[ ]

3. A Proposed Law: To alter the Constitution to designate local government.  
[ ]

4. A Proposed Law: To alter the Constitution to extend the right to trial by jury to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any government.  
[ ]

Answer **ONLY** question.

**Have your say on Referendum Day.**

Approved by the Australian Electoral Commission.

## Introduction.

A Referendum is a direct opportunity for all Australians to have their say in the country's future. On Referendum Day (Saturday, September 3), all Australian electors will vote YES or NO on each of four proposed laws to change the Constitution.

To become law, each proposed change requires the approval of a majority of electors nationally and a majority of electors in a majority of States.

### About the Constitution.

The Constitution is the "blueprint" which defines Australia's system of national government and establishes the legal basis for Federal Parliament to make laws. And the Constitution itself guarantees that the only way the "blueprint" can be changed is by a Referendum - that is, by asking all enrolled electors whether or not they approve proposed laws to change the Constitution. This is what will happen on September 3.

### The four proposed laws.

- 1. Constitution Alteration (Parliamentary Terms) 1988.**  
(To alter the Constitution to provide for 4-year maximum terms for members of both Houses of the Commonwealth Parliament.)
- 2. Constitution Alteration (Fair Elections) 1988.**  
(To alter the Constitution to provide for fair and democratic parliamentary elections throughout Australia.)
- 3. Constitution Alteration (Local Government) 1988.**  
(To alter the Constitution to recognise local government.)
- 4. Constitution Alteration (Rights and Freedoms) 1988.**  
(To alter the Constitution to extend the right to trial by jury, to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any government.)

**Voting is compulsory.**

### Fer or against?

The arguments for and against the proposed changes on pages 4-26 of this booklet have been written by members of both Houses of Parliament who either favour or oppose the changes.

I am required by law to send these arguments to you. This booklet is designed to help you decide YES or NO when you have your say on Referendum Day. I urge you to read it to help you make an informed decision when you vote on September 3.

*Colin A. Hughes*

Colin A. Hughes  
Electoral Commissioner

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Approved by the Australian Electoral Commission.

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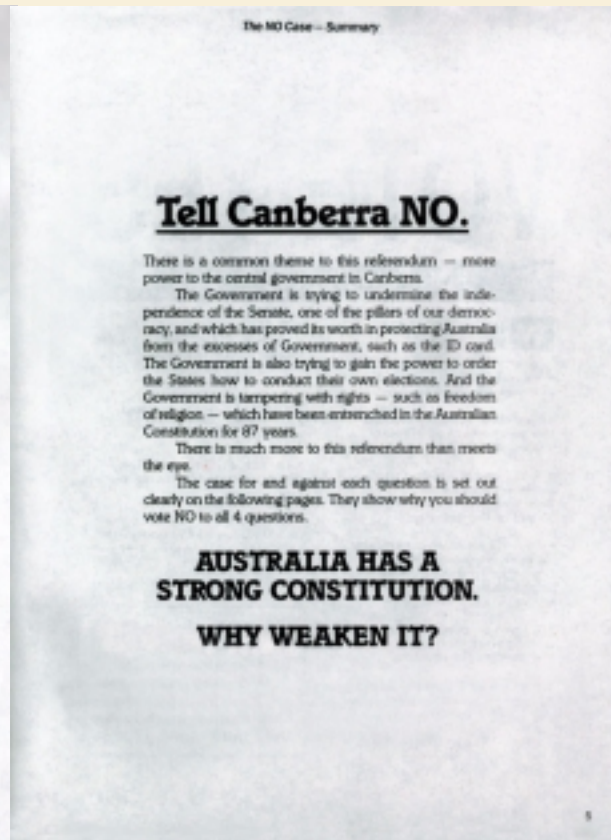
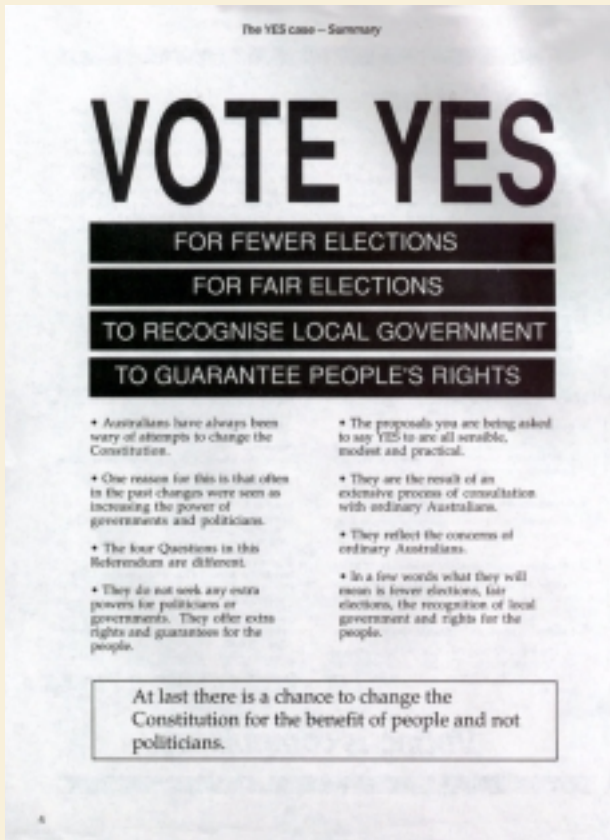
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Question 1 - The YES case

# QUESTION ONE VOTE YES

## FOR FEWER ELECTIONS

### WHAT A YES VOTE WILL MEAN

- Federal Governments will have four year maximum terms.
- The Senate will have the same four year terms as the House of Representatives.
- A YES vote will mean that all future elections for the House of Representatives and the Senate will be held on the same day.
- This will create an environment for more responsible long-term Government planning which will assist both the private and public sectors.
- A four year maximum term will ensure governments can get on with running the country.
- With four year maximum terms business will be able to plan and invest with more certainty.

- The business community has strongly supported four year terms because it believes they are very important for Australia's future welfare.
- All States except Queensland have already recognised the value of four year terms.
- The public will be spared the disruption caused by having too many elections.
- Having too many elections also costs taxpayers a lot of money - the bill for the last Federal election was \$47 million.

Since 1945 we have had a Federal election on average once every two years. By voting YES for four-year maximum terms for Federal Parliament you can help stop this practice.

Question 2 - The YES case

### WHAT A YES VOTE DOES NOT MEAN

While a four year maximum term ends Australia many benefits there is one thing it does not do -

• A YES vote will not touch the powers or independence of the Senate.

• On many occasions Australians have indicated they want to retain the role and power of the Senate. The proposal for four year terms was very carefully drawn up to ensure the Senate retained all its powers. A YES vote will not weaken the Senate's powers in any way.

A YES vote for four-year maximum terms will have many other benefits.

The Senate will have the same four-year term as the House of Representatives under this proposal.

• As the whole Senate will be elected at the same time as the House of Representatives it will be more accountable.

• Eight year terms for the Senate would be too long. Such a long term for any elected representative would isolate them from the people they represent. All politicians should be accountable for their actions.

A yes vote will not touch the powers or independence of the Senate

• The watchdog role of the Senate will not be affected in any way. Just as it can now, the Senate will be free to review, amend or reject legislation.

• The Senate's powers over Supply bills will not be changed.

• The changes mean the Senate will still be able to force a Government to elections but will be accountable to the people for its performance at the same time.

The arguments for a YES vote are simple and sensible.

• A YES vote will mean more stable government.

Australia has too many elections

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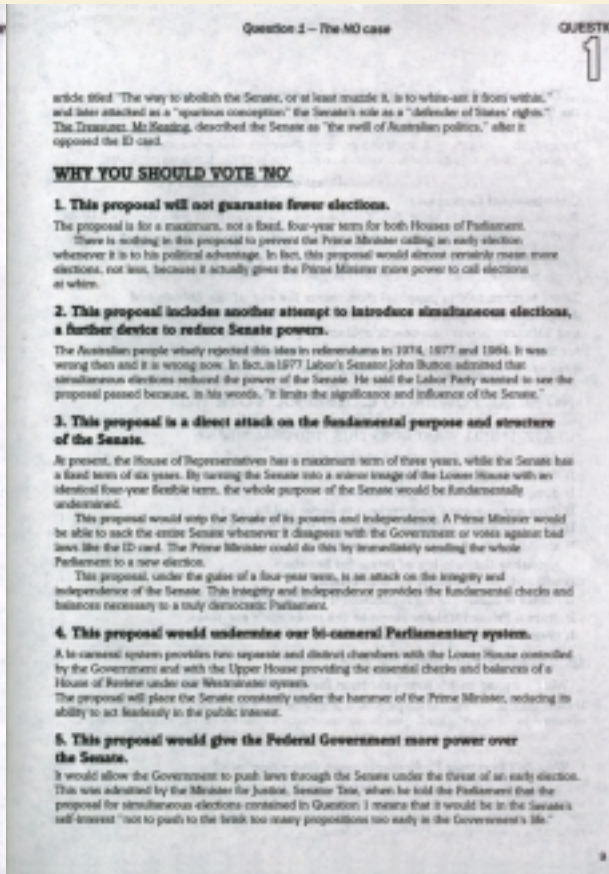
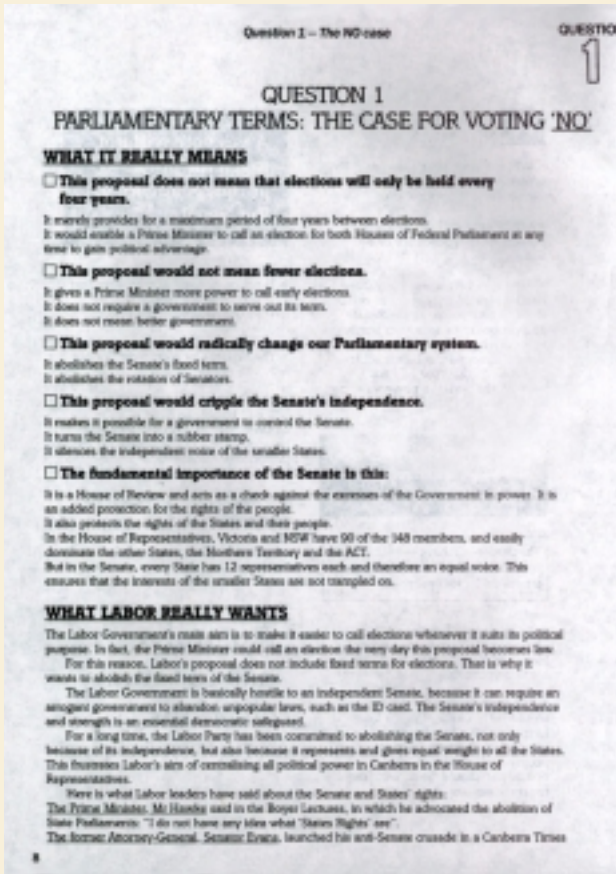
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Question 1 – The NO case

QUESTION 1

**6. This proposal would give the Federal Government more power over the States.**

The proposal would allow the Government to ignore the people from the smaller States and their legitimate voice in Canberra. It would undermine the Constitutional balance embodied in the concept of giving all States, regardless of population, an equal voice in Canberra through the Senate.

**7. This proposal rejects recommendations of the Government's own Constitutional Commission.**

Two questions need to be asked. First, if the Government is serious about fewer elections, why did it reject the Constitutional Commission's recommendation that it must serve a maximum of three years before calling an election? Second, why did the Government reject the Constitutional Commission's recommendation that the Senate's term be two terms of the House of Representatives? In effect, the Government has rejected the advice of its own experts.

**There is more to this proposal than meets the eye. It has hidden and dangerous consequences which would forever remove the essential checks and balances in our democratic system of government. It means more power for the Prime Minister and the Government, and less power for the States. It does not even guarantee fewer elections or better government.**

**NO MORE POWER TO CANBERRA. VOTE 'NO.'**

**IN A NUTSHELL WHAT DOES THIS PROPOSAL MEAN?**

- It does not mean four years between elections.
- It does not mean fewer elections.
- It does not mean better government.
- It does not require a government to serve out its term.
- It does, however, radically change our Parliamentary system.
- It abolishes the Senate's fixed term.
- It abolishes the rotation of terms for Senators.
- It will reduce the Senate's independence.
- It makes it easier for a government to control the Senate.
- It gives a Prime Minister scope to call more early elections.
- It gives nothing, but takes much away.

**QUESTIONS YOU SHOULD ASK**

What's wrong with a four-year term for the House of Representatives?

If it was just that, nothing, but this proposal is at the expense of the Senate. It destroys the basis of our democratic system by eroding the Senate's independence and transferring more power to the Prime Minister. Even the Hawke Government's hand-picked Constitutional Commission saw the dangers in that.

Wouldn't four year Parliaments mean fewer elections?

No. It makes more elections likely. The proposal will abolish the fixed term of Senators and the staggering of those terms, and this means any Prime Minister will be free to call an election for both the House of Representatives and the entire Senate whenever he chooses. This fundamentally reduces the power and independence of the Senate.

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Question 1 – The NO case

QUESTION 1

Mr Hawke is being completely hypocritical about this. In the past five years, he has gone out of his way, including use of the double dissolution device, to call elections for his political advantage. His record is bad enough as it is. Removing the constraints will make it even worse.

And the record speaks for itself. We have had two elections since he became Prime Minister in March 1983. He called his first election within 10 months, although another election was not due until 1986, and then he called the second in 1987, again well before it was due. If Mr Hawke had gone his full term, there would have been only one election since 1983, and the second one would not have been due until March 1990.

What's in this for Mr Hawke?

This proposal gives Mr Hawke the option of an extra five months in office.

At present, a half-Senate election has to be held by early June 1990, and the Government would extend the Senate's term beyond 30 June 1990, to as late as 17 November 1990, so that he could delay the election until then.

How does the proposal affect the Senate?

Essentially, it would become a mere echo of the House of Representatives through a change to its basic structure — abolition of both its present fixed six-year term — and the staggering of Senators' terms so that half of them face election every three years.

This structure is fundamental to the Senate's role as a House of Review and as the voice of the States. The stability of the six-year term enables Senators to serve over a period long enough for important issues to be given the full attention they deserve, and not rushed through perfunctorily without proper consideration.

Australians have always recognised the dangers of such a change, proven by their rejection of the same idea in referendums in 1974, 1977 and 1984.

Each time, Australians have recognised that such a change would reduce the Senate to a rubber stamp for the government of the day.

Why does the proposal make it easier for the Government to control the Senate?

This proposal also allows the Prime Minister to pick the politically most advantageous time to hold elections for the Senate. It gives him the right to manipulate the date for the election to exploit a single emotive issue and so to maximise his chances of re-election and to control both Houses.

Why did the Government reject the Constitutional Commission's advice?

The Constitutional Commission argued against this very proposal. It said that the House of Representatives term should only be increased to four years if there was also a three-year minimum term, to prevent a Prime Minister calling an early election. The Commission also recommended that the Senate serve two terms of the House of Representatives. It did not even contemplate a flexible four-year term for the Senate, obviously because it would undermine stable government.

Given Mr Hawke's record of calling early elections for opportunistic political advantage, it is not surprising that he rejected the recommendations of the Constitutional Commission to provide safeguards against the cynical manipulation of election dates. It is also no surprise that instead he intends to reduce the powers and independence of the Senate and the States, seeks to retain the power to call elections when he likes, and wants to centralise power in Canberra.

**DON'T BE DECEIVED BY CANBERRA.  
KEEP THE STATES AND THE SENATE STRONG.  
VOTE 'NO.'**

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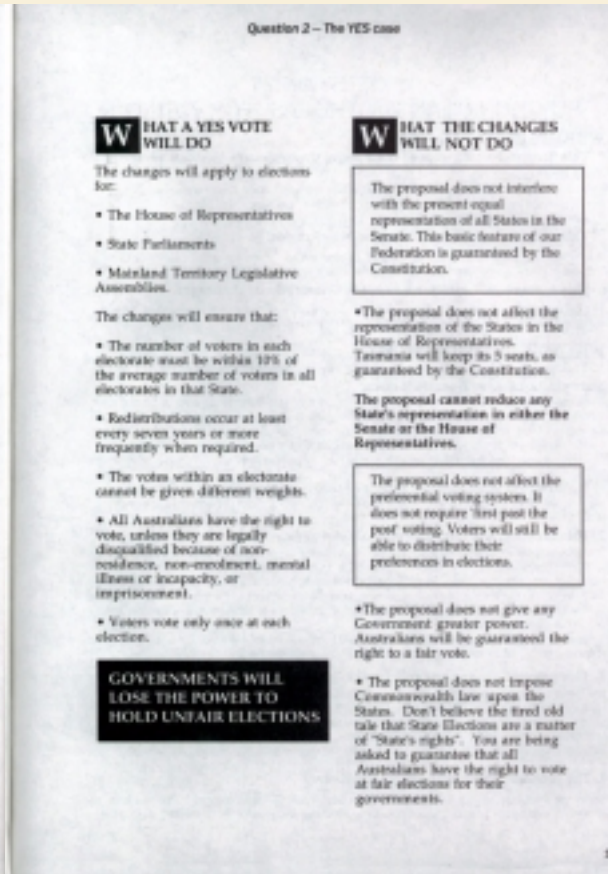
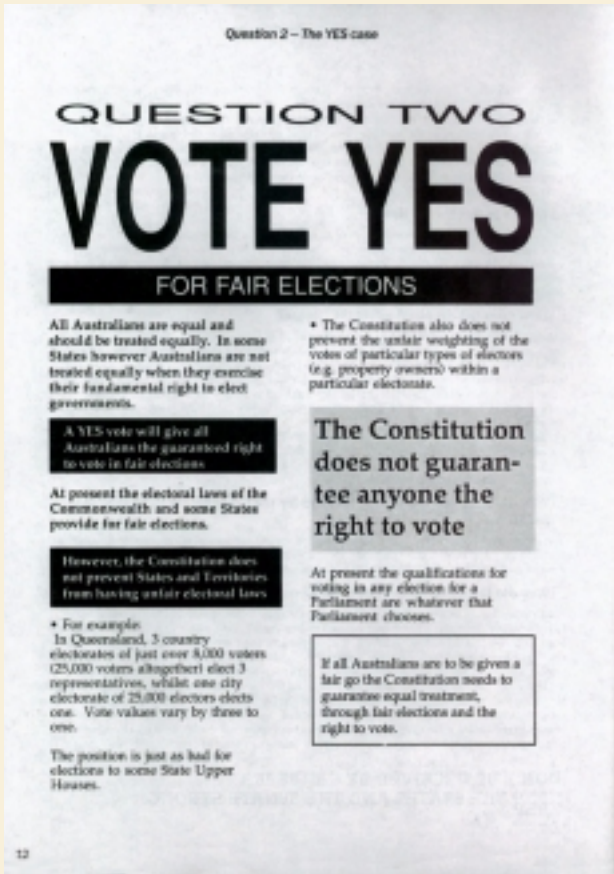
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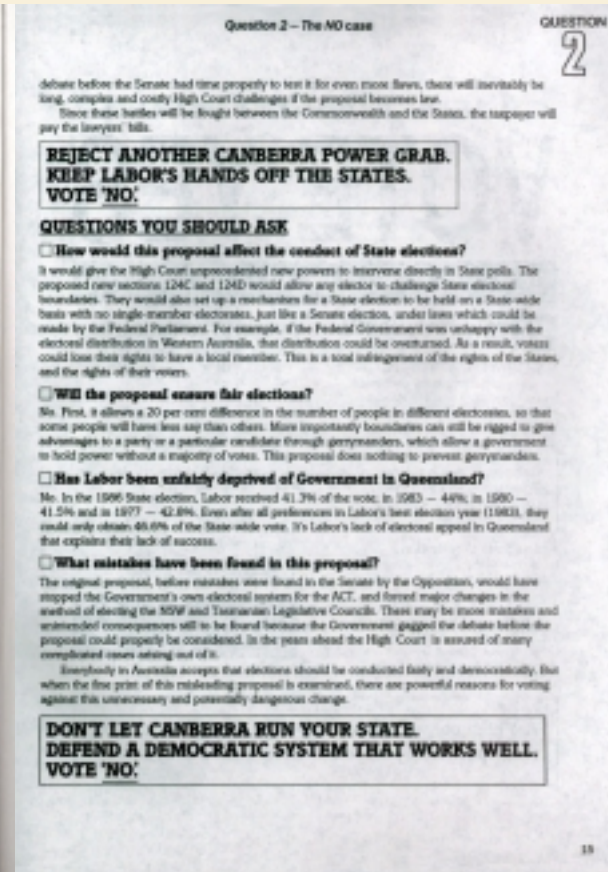
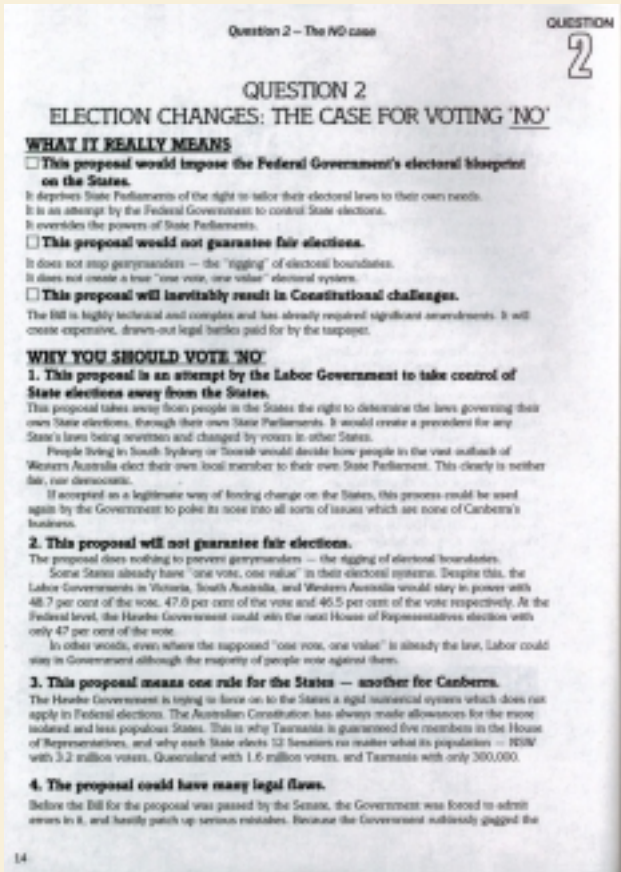
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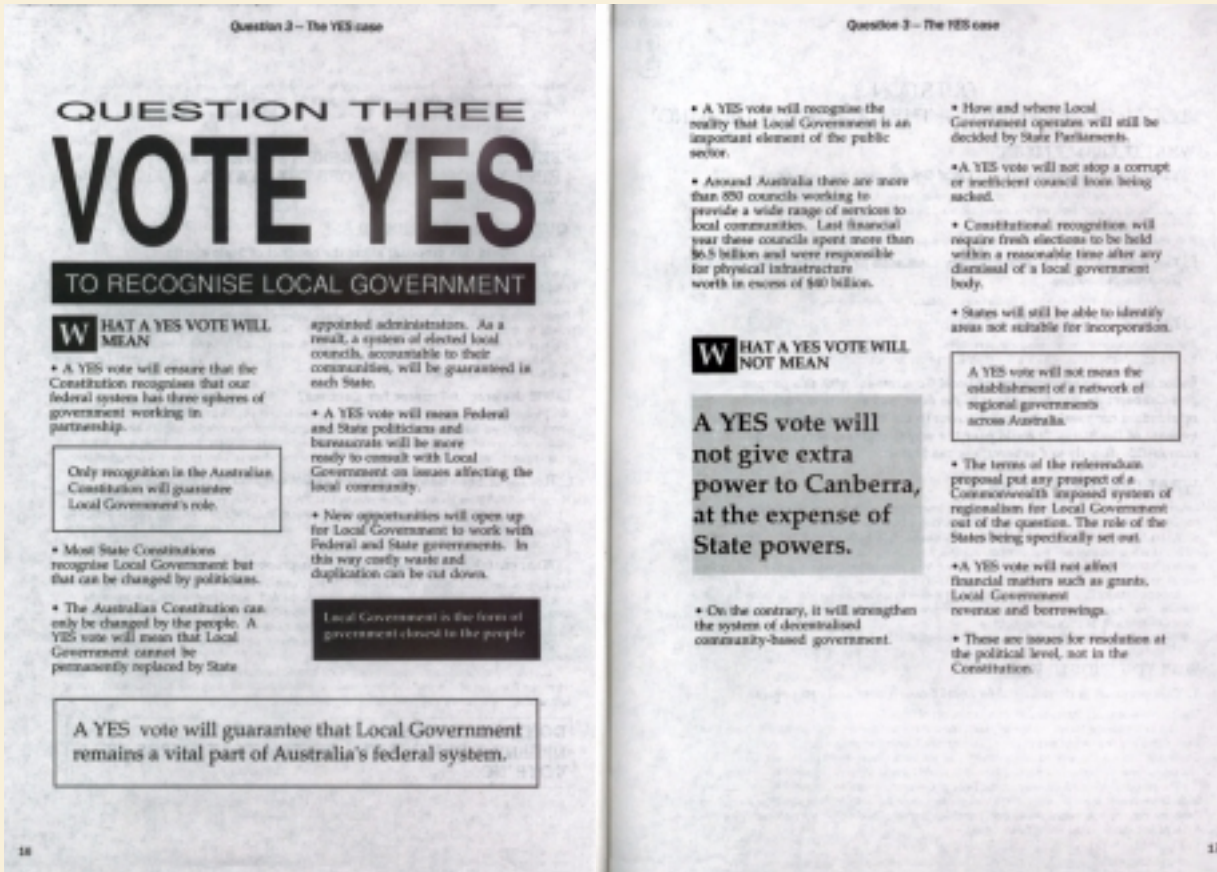
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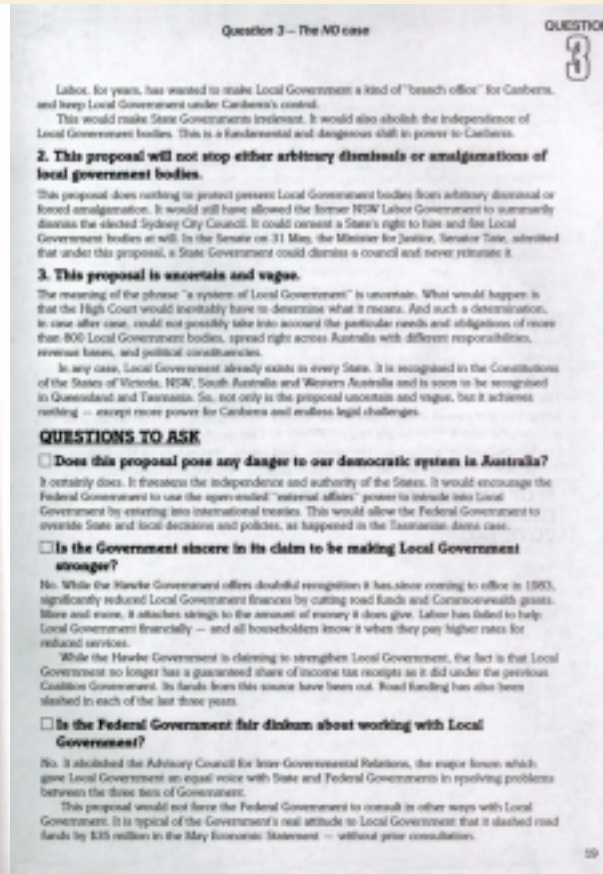
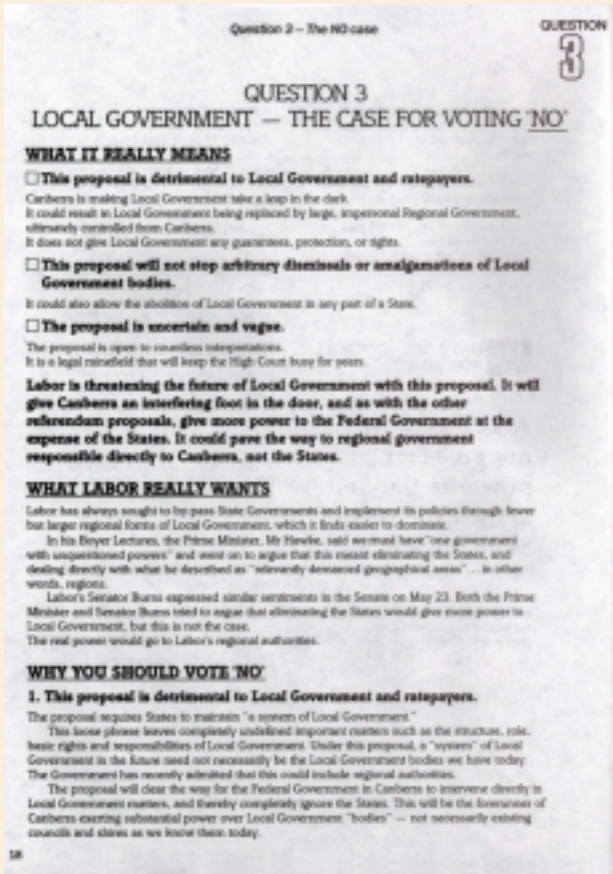
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Question 3 – The NO case

QUESTION 3

**What did Local Government itself want?**  
Local Government associations have consistently argued that if there is to be Constitutional recognition, it should be much stronger than this proposal. The Australian Council of Local Government Associations and the Council of Capital City Lord Mayors have loudly argued that an entirely new chapter should be added to the Constitution.  
And most importantly, both bodies wanted protection against undemocratic dismissal or amalgamation. This proposal clearly does not satisfy these demands.

**Does the proposal apply to Territories?**  
No. There are a number of councils in the Northern Territory, and for reasons best known to the Government itself, the proposal will not apply to councils there. The Government is not sincere.

**Why is the Government ignoring its own experts?**  
Some of the Government's own expert advisers, attached to the Constitutional Commission, strongly opposed recognition of Local Government in the Constitution.  
The advisers, a body called the Distribution of Powers Advisory Committee, after extensive study, gave many solid reasons for recommending against Constitutional recognition, among them being: uncertainty as to how the High Court would interpret such a Constitutional provision; doubts about the real need for such recognition; and the undesirability of entrenching in the Constitution another level of government which would compete with the States.  
These carefully considered recommendations were dismissed out of hand by the Government.  
**The Australian Constitution should not be thoughtlessly changed. Vague and uncertain proposals should not be carelessly written into the document which is fundamental to our democratic processes. This proposal changes nothing for Australians — except for the worse. And again, it panders to the Federal Government's increasing desire for more power, centred in Canberra.**

**STOP CANBERRA'S POWER GRAB.  
PROTECT YOUR SYSTEM OF LOCAL GOVERNMENT.  
VOTE 'NO'.**

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Question 4 – The YES case

QUESTION FOUR

**VOTE YES**

**TO GUARANTEE PEOPLE'S RIGHTS**

**Voting YES will guarantee all Australians three basic rights and freedoms against the actions of all Governments**

- trial by jury for people facing serious criminal charges
- fair compensation if a government takes your property
- freedom of religion

Presently the Constitution gives limited protection for all three, but only from the Commonwealth Government.

**State and Territory Governments are not bound to observe these rights.**

**TRIAL BY JURY**

At present, the Constitution does not give a right to trial by jury:

- for offences against State and Territory laws
- for a number of serious Commonwealth offences.

**WHAT A YES VOTE WILL DO**

A YES vote will guarantee trial by jury for any person liable:

- to imprisonment for more than 2 years, or
- to any form of corporal punishment (including the death penalty)

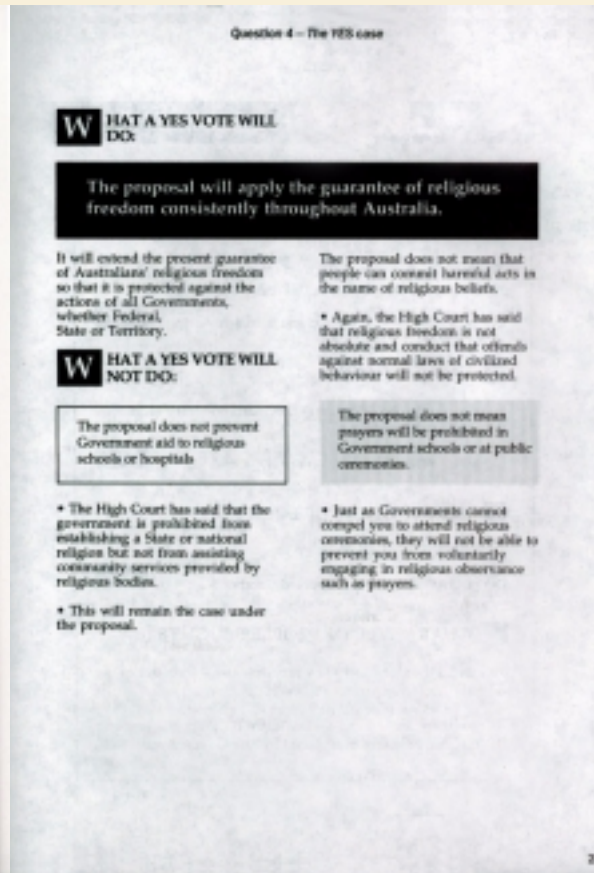
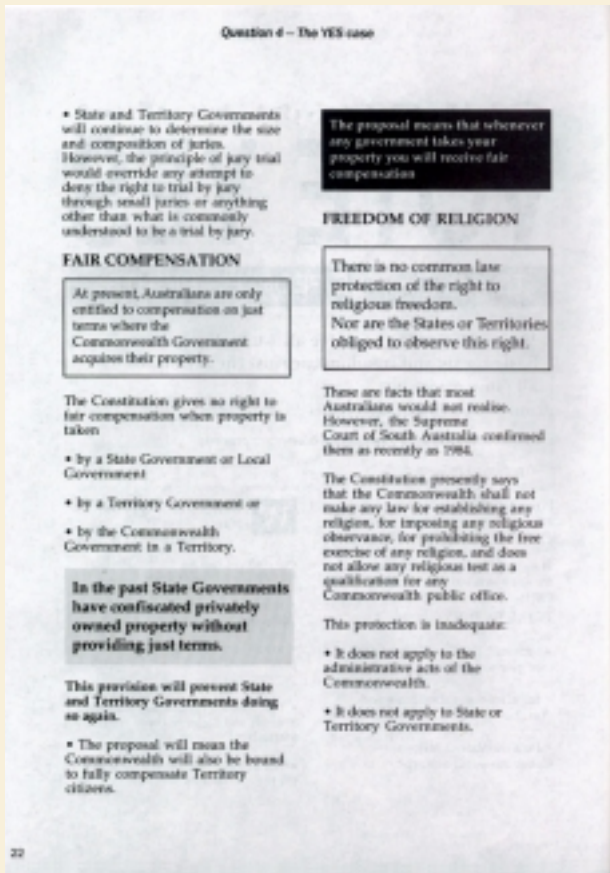
The only exceptions are contempt of court and Defence Force court-martials.

The accused will be able to waive the right to trial by jury.

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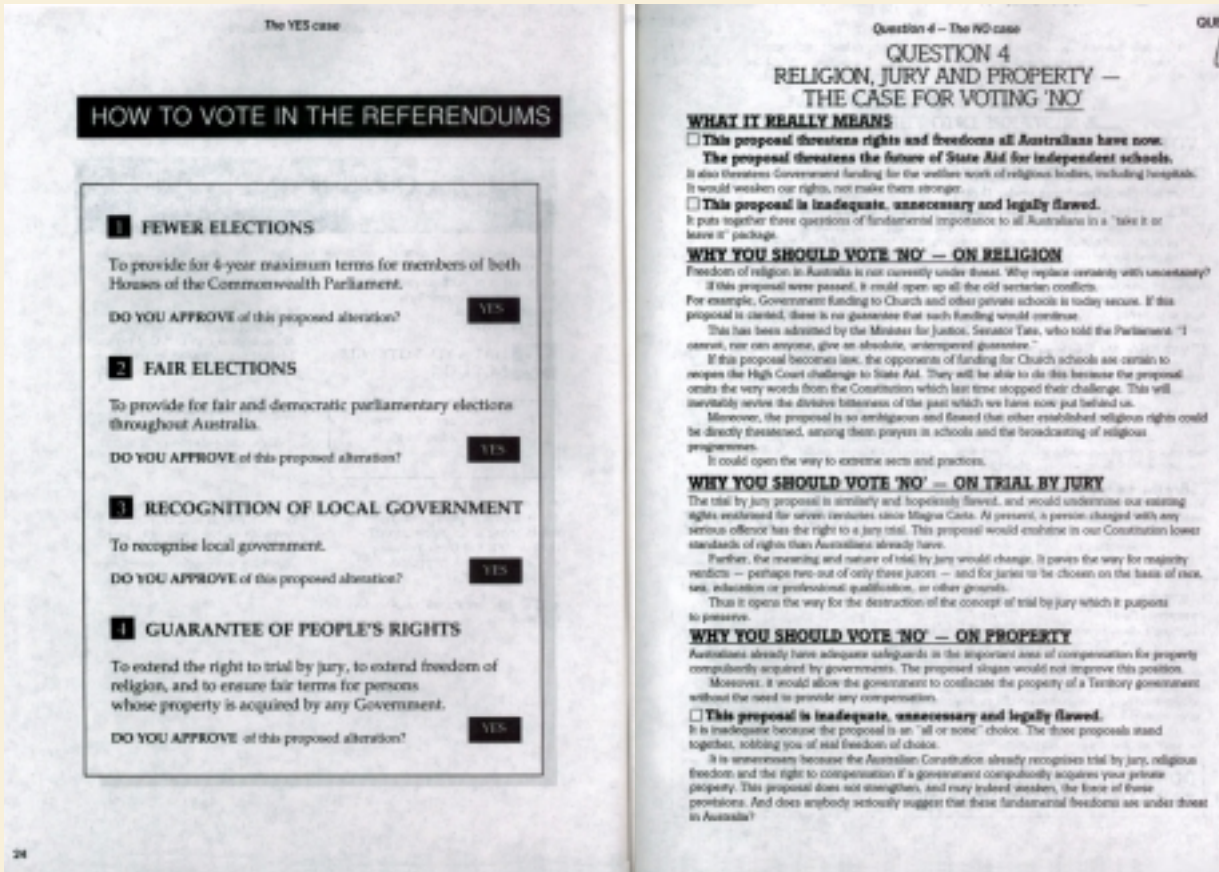
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# Referendum 1988

## Question 4 - The NO case

## QUESTION

It is legally flawed because there is a very real danger that by defining such rights in so much detail, those rights are in fact limited and weakened, and subject to endless legal challenges in the courts. This has already happened in America, where the courts are full of such cases.

**DON'T RISK THE RIGHTS YOU ALREADY HAVE.  
DON'T VOTE MISTAKES INTO THE CONSTITUTION.  
VOTE 'NO.'**

### QUESTIONS YOU SHOULD ASK

- Are religious freedoms under threat in Australia right now? **NO**
- Which religious freedoms are threatened by these changes?

This proposal would put at risk our established religious rights and freedoms.

The broadening of church services and religious programmes could be limited. The provision for these provisions comes from the United States, which has a constitutional guarantee of religious freedom very similar to this proposal, and where Supreme Court rulings have limited religious freedoms rather than expanding it.

Additionally, there are some specific provisions in various religious or religious sects which offend against prevailing social standards and freedoms. These provisions, sometimes offensive to a majority of Australians, could gain immunity under this proposal.

### Will State Aid continue?

The proposal would create an opportunity for the opponents of State Aid to challenge the 1981 High Court decision in the notorious D.O.G.S. case which sought to stop government funding of Church and other independent schools.

That case created bitter dispute in the Australian community, dividing friends and families. That bitterness has faded over the years since the High Court ruled that the Constitution's words as they then stood, and still stand, were not violated by government funding to religious schools. This proposal removes the crucial words - which relate to making a law to establish a religion - and thus opens the way for renewed challenges to State Aid.

### Are there flaws in the trial by jury proposal?

Yes. At present, persons charged with any serious offence are entitled to trial by jury.

Under this proposal, some people facing charges would no longer have that right.

The traditional form of trial by a jury of 12 fellow citizens could be a thing of the past.

### Will this proposal improve existing rights to compensation?

No, there is already such a provision in the Constitution, but this has made no difference to people's rights under existing Commonwealth laws, which the government itself concedes are in need of radical overhaul.

Each of these questions, in various ways, is flawed and inadequate. There is no good reason for endangering the rights we already have, or for writing into the Constitution new provisions which are uncertain in their effect, contradictory, and unnecessarily complicated.

**DON'T ENDANGER THE RIGHTS  
YOU ALREADY HAVE. VOTE 'NO.'**

## HOW TO VOTE

- I propose to vote to alter the Constitution to provide for a case maximum term for members of both Houses of the Commonwealth Parliament. **NO**
- I propose to alter the Constitution to provide for the full and adequate parliamentary sessions throughout Australia. **NO**
- I propose to alter the Constitution to require local government. **NO**
- I propose to alter the Constitution to ensure religious freedom, to protect freedom of religion, and to ensure fair terms for persons whose property is acquired by any Government. **NO**

## The proposed changes to our Constitution.

Four proposed laws for the alteration of the Constitution have been passed by absolute majorities of each House of the Parliament and are to be submitted to the electors in accordance with section 126 of the Constitution. The short titles of the proposed laws are:

- (1) Constitution Alteration (Parliamentary Term) 1988
- (2) Constitution Alteration (Fair Decisions) 1988
- (3) Constitution Alteration (Local Government) 1988
- (4) Constitution Alteration (Rights and Freedoms) 1988

The provisions of the Constitution directly affected by each of the proposed laws are set out below.

Words proposed to be inserted in the Constitution are printed in **bold type**.

Words proposed to be deleted from the Constitution are ruled through.

### (1) Constitution Alteration (Parliamentary Term) 1988

#### The Senate.

If the Senate shall be composed of senators for each State, directly chosen by the people of the State, voting until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several Original States shall be maintained and

that no Original State shall have less than six senators. The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

#### Method of election of senators.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.

#### Times and places.

The Parliament of a State may make laws for determining the times and places of elections of senators for the State.

#### Issue of writs.

12. The Governor of any State may cause writs to be issued for elections of senators for the State, in cases of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

The writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof, but so that the polling day shall be the same day as the polling day for the election of members of the House of Representatives.

#### Rotation of senators.

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, so nearly equal in number as practicable, so that the process of the senators of the first class shall become vacant at the expiration of three years, and the process of those of the second class at the expiration of six years from the beginning of their term of service, and afterwards the process of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made within one year before the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of July following the day of his election, except in the case of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of July preceding the day of his election.

Authorised by the Australian Electoral Commission.

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## Terms of service of senators.

13. (2) The terms of service of senators expire upon the expiry or dissolution of the House of Representatives.

(2) Subsection (1) applies in relation to the term of service of any senator, including:

(a) a senator holding office at the commencement of this section; and

(b) a senator chosen or appointed after that commencement in consequence of a vacancy existing at that commencement.

but, in the case of a senator appointed by the Governor of a State, this section does not extend to the term of the appointment after the expiration of fourteen days from the beginning of the next session of the Parliament of the State following the making of the appointment.

## Further provision for rotation

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the voting of the pieces of senators for the State as it deems necessary to maintain regularity in the rotation.

## Duration of House of Representatives.

26. Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

In relation to a House of Representatives whose first meeting occurred before the commencement of the Constitution (Alteration (Parliamentary Terms) 1986, the last preceding paragraph has effect as if the reference to four years were a reference to three years.

## (2) Constitution Alteration (Fair Elections) 1986

### Qualification of electors.

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives, but, in the absence of any such qualification, shall not be less than that which is prescribed by the Parliament.

9. Subject to this Constitution, the qualification of electors of senators shall be in each State or Territory that which is prescribed by the Parliament as the qualification of electors of members of the House of Representatives.

Provision as to those disqualified from voting.

20. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from

voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

### Electoral divisions.

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

29. (2) Subject to this Constitution, the Parliament may make laws providing for electoral divisions for which members of the House of Representatives may be chosen and being the number of members to be chosen for each division.

(2) A division shall not be formed out of parts of different States.

(2) A division may be formed out of an area comprising two or more areas each of which is a Territory or part of a Territory.

### Qualification of electors.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

30. Subject to this Constitution, the qualification of electors of members of the House of Representatives shall be, in each State or Territory, that which is prescribed by the Parliament.

### Right of electors of States.

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues to be presented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

### Electors of State Parliaments.

117A. (2) A House of the Parliament of a State shall be composed of members directly chosen by the people of the State.

(2) Subject to this Constitution, the qualification of electors of members of a House of the Parliament of the State shall be that which is prescribed by the law of the State.

### Electors of certain Territory legislatures.

125A. (1) The legislatures of a Territory forming part of Australia or a combination of such Territories shall be composed of members directly chosen by the people of the Territory or Territories.

(2) Subject to this Constitution and to any law made by the Parliament of the Commonwealth, the qualification of electors of members of the legislature shall be that which is prescribed by the law of the Territory or Territories.

## CHAPTER VA. FAIR ELECTIONS.

### Interpretation.

124A. In this Chapter

"elector" means an elector for choosing:

(a) members of the House of Representatives for an electoral region;

(b) members of a House of the Parliament of a State; or

(c) members of the legislature of a Territory forming part of Australia or a combination of such Territories;

otherwise than for the purpose of filling casual vacancies;

"electoral region" means:

(a) a State or Territory; or

(b) an area comprising two or more areas each of which is a Territory or part of a Territory;

"fair distribution" means a determination of electoral divisions in accordance with section one hundred and twenty-four C.

Notes: to have equal value.

124B. (1) In:

(a) an election held in an electoral division; or

(b) an election held in an electoral region that is one electorate;

the method of voting shall be such that, with respect to the votes of all electors in the division, or in the electorate, as the case may be, votes shall not be weighted according to different classes of electors.

(2) In this section, "election" includes an election to choose senators.

### Fair distributions of electoral divisions.

124E. (1) Where a law provides for electoral divisions in an electoral region, the divisions shall be determined so that the number of electors in each division does not depart to a greater extent than one-twentieth more or one-twentieth less from the number calculated under subsection (2).

(2) For the purposes of subsection (1), a number in relation to a particular electoral division, shall be calculated by:

(a) dividing the total number of electors in all the electoral divisions in the electoral region by the total number of members to be chosen in all those divisions; and

(b) multiplying the result by the numbers of members to be chosen for that electoral division.

(3) It, in relation to a determination of electoral divisions:

(a) no proceedings challenging the determination have been instituted as provided by this Chapter; or

(b) any proceedings so instituted have been withdrawn or dismissed;

the determination shall be taken to have been made in accordance with this section.

### Electors in divisions.

124D. (1) An election in an electoral region may be held in electoral divisions only if:

(a) the divisions have been determined by a fair distribution made after the commencement of this Chapter and not more than seven years before the election; and

(b) subsection (2) does not apply in relation to the electoral divisions.

(2) Subject to subsection (3), this subsection applies to electoral divisions for an election if, on the last day of each of any two or more consecutive months during the last fair distribution before that election, the numbers of the electors in more than one-third of the divisions were such that, if the divisions had been determined with those numbers of electors, the determination would not have been a fair distribution.

(3) In ascertaining whether subsection (2) applies in relation to electoral divisions for an election, a particular month shall be disregarded if the last day of that month occurs within twenty-six weeks before the date of expiry, by effluxion of time, of the terms of service of all or any of the members of the House concerned.

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(3) This section does not apply to an election held before the end of one year after the commencement of this Chapter.

(5) In this section

"House" means

- (a) the House of Representatives;
- (b) a House of the Parliament of a State; or
- (c) a chamber (by whatever name called) of the legislature of a Territory or combination of Territories;

"month" means one of the twelve months of the year.

Elections where electoral right is to one elector.

124E. (1) Where an election in an electoral region is not to be held in electoral divisions or, if so held, is or would be contrary to section one hundred and twenty-four B, the region shall be one electorate.

(2) Where a region is to be one electorate, an election in the electorate shall be held

- (a) if the election is for the purpose of choosing members of the House of Representatives — as the Parliament provides; or
- (b) if the election is for the purpose of choosing members of a House of the Parliament of a State or the legislature of a Territory or a combination of Territories — in accordance with the law of the State, Territory or Territories, as the case requires, or, if there is no such law, as the Parliament provides;

but so that the method of choosing those members shall be a system of proportional representation.

Local vacancies.

124F. Nothing in this Constitution prevents the filling of a casual vacancy in the membership of

- (a) a House of the Parliament of a State; or
- (b) the legislature of a Territory forming part of Australia or a combination of such Territories;

in the manner provided by the Parliament of that State or, subject to any law made by the Parliament of the Commonwealth, by that legislature, as the case requires.

Right to challenge determinations of electoral divisions.

124G. (1) Subject to subsection (2), a determination of electoral divisions may be challenged by an elector in a court of competent jurisdiction on the ground that the determination was not a fair distribution.

(2) An elector shall not institute proceedings under subsection (1) after the end of forty days after both of the following have been notified to the public, namely

- (a) the results of the determination; and
- (b) all statistics necessary to ascertain whether or not the determination was a fair distribution.

(3) In this section, "elector" in relation to a determination of electoral divisions, means a person whose name is on a roll of electors qualified to vote at an election in those divisions.

Right to vote.

124H. (1) Laws prescribing the qualifications of electors for elections shall be such that each Australian citizen who

- (a) complies with reasonable conditions prescribed by those laws as to residence and enrolment; and
- (b) has reached the age of eighteen years;

is entitled to vote, subject to any disqualification prescribed by those laws as to persons who

- (a) because of unsoundness of mind, are incapable of understanding the nature and significance of enrolment and voting; or
- (b) are undergoing imprisonment for an offence.

(2) If

- (a) a person applies to a court of competent jurisdiction for an order under this subsection; and
  - (b) the person would be qualified as an elector as provided by this section but for the fact that the relevant law is inconsistent with this section;
- the court may order that the person shall be enrolled, and is entitled to vote, as if the person were so qualified.

(3) This section does not apply in relation to an election held before the end of one year after the commencement of this Chapter.

Elections to have only one vote.

124I. In the choosing of

- (a) senators;
  - (b) members of the House of Representatives;
  - (c) members of a House of the Parliament of a State; or
  - (d) members of the legislature of a Territory forming part of Australia or a combination of such Territories;
- each elector shall vote only once.

(3) Constitution Alteration (Local Government) 1988

Local Government.

123B. Each State shall provide for the establishment and continuance of a system of local government, with local government bodies elected in accordance with the laws of the State and empowered to administer, and to make by-laws for, such respective areas in accordance with the laws of the State.

(4) Constitution Alteration (Rights and Freedoms) 1988

Trial by jury.

30. The trial and punishment of any offence against any law of the Commonwealth shall be by jury and every such trial shall be held in the State where the offence was committed; and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

30. (2) The trial of a person for an offence, where the accused is liable to imprisonment for more than two years or any form of corporal punishment, shall be by jury except in the case of a trial for contempt of court or a trial of a member of the Defence Force of the Commonwealth before a court-martial under a law relating to the discipline of the Defence Force of the Commonwealth.

(3) The trial by jury of an offence against a law of the Commonwealth that

- (a) was not committed in a State or Territory;
  - (b) was committed in less or more of the States and Territories; or
  - (c) was committed at a place or places unknown;
- shall be held at such place or places as the Parliament prescribes.

(3) The trial by jury of any other offence against a law of the Commonwealth shall be held in the State or Territory where the offence was committed.

(4) At any time during a trial referred to in subsection (2) or (3), the court may, on application by the accused or the prosecution, transfer the trial to a court of competent jurisdiction in another State or Territory.

- (5) Nothing in subsection (1) prevents the making or effects the operation of a law to the extent that the law:
- (a) permits waiver by the accused of trial by jury;
- (b) regulates the size or composition of the jury; or
- (c) provides for majority verdicts.

Acquisition of property under State law.

123A. A law of a State may not provide for the acquisition of property from any person except on just terms.

Acquisition of property in Territories.

123B. A law made under section one hundred and twenty-four B or a law of a Territory may not provide for the acquisition of property from any person except on just terms.

Commonwealth not to legislate in respect of religion.

123. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

No establishment etc. of religion.

123. The Commonwealth, a State or a Territory shall not establish any religion, impose any religious observance or prohibit the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth, a State or a Territory.

AUSTRALIAN ELECTORAL COMMISSION.

West Block, Parkes, ACT 2600.

Authorised by the Australian Electoral Commission.

Authorised by the Australian Electoral Commission.

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# Ballot paper

One ballot paper containing the four questions was issued to electors. Each ballot paper contained the questions, the full title of the proposed laws for alteration of the Constitution and directions to the voters.

## Formal vote

Electors indicated their vote as follows:

- If they approved of the proposed law, they wrote the word 'Yes' in the space provided.
- If they did not approve of the proposed law, they wrote the word 'No' in the space provided.

Commonwealth of Australia.  
**ABSENT VOTE BALLOT PAPERS.**  
WESTERN AUSTRALIA.

**Referendums on  
proposed Constitution alterations.**

**DIRECTIONS TO VOTER:**  
**Write YES or NO  
in the space provided  
opposite each of the 4  
questions set out below.**

1. A Proposed Law: To alter the Constitution to provide for 4-year maximum terms for members of both Houses of the Commonwealth Parliament.  
DO YOU APPROVE THIS PROPOSED ALTERATION?

2. A Proposed Law: To alter the Constitution to provide for fair and democratic parliamentary elections throughout Australia.  
DO YOU APPROVE THIS PROPOSED ALTERATION?

3. A Proposed Law: To alter the Constitution to recognise local government.  
DO YOU APPROVE THIS PROPOSED ALTERATION?

4. A Proposed Law: To alter the Constitution to extend the right to trial by jury, to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any Government.  
DO YOU APPROVE THIS PROPOSED ALTERATION?

**Answer every question.**

**Fold the ballot paper so that the votes cannot be seen and return it to the Presiding Officer before whom you made your declaration.**

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## Informal vote

A ballot paper was considered informal if:

- it was not initialled by the presiding officer or did not have an official mark; or
- it had no vote marked on it; or
- it had more than one vote marked on it; or
- it had some mark or writing on it that could, in the opinion of the divisional returning officer or assistant returning officer, identify the voter.

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# Results

Q1. The referendum was NOT carried.

No States recorded a YES vote. Nationally 32.92% of electors voted YES.

Q2. The referendum was NOT carried.

No States recorded a YES vote. Nationally 37.60% of electors voted YES.

Q3. The referendum was NOT carried.

No States recorded a YES vote. Nationally 33.62% of electors voted YES.

Q4. The referendum was NOT carried.

No States recorded a YES vote. Nationally 30.79% of electors voted YES.

**Click** to find out more about what is required for a referendum to be carried.

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<b>Turnout Statistics</b> by Division	<b>Excel</b>	<b>Text</b>	<b>Notes</b>
<b>Votes Counted by Vote Type</b> by Division	<b>Excel</b>	<b>Text</b>	<b>Notes</b>
<b>Informality Statistics</b> by Division	<b>Excel</b>	<b>Text</b>	<b>Notes</b>
<b>Referendum Results</b> by State and Division			
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Q2. Fair Elections	<b>Excel</b>	<b>Text</b>	<b>Notes</b>
Q3. Local Governments	<b>Excel</b>	<b>Text</b>	<b>Notes</b>
Q4. Rights and Freedoms	<b>Excel</b>	<b>Text</b>	<b>Notes</b>

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