Commonwealth Electoral Amendment (By-Elections) Bill 1987
(Private Senator's Bill)

Date Introduced: 28 May 1987
House: Senate
Presented by: Senator the Hon. David Vigor

Digest of Bill

Purpose
To provide for the printing of ballot papers in batches with names in different positions to alleviate the effect of the 'donkey' vote, and to remove the need for by-elections by the recounting of the previous general election ballot papers when a vacancy arises.

Background
The phenomena of 'donkey' voting, the practice of numbering from the top or bottom of the ballot paper, largely arises as a result of compulsory voting. People who would otherwise not vote due to a lack of interest feel compelled to vote and do so without much or any thought. In such cases the easiest way to vote is simply down the ballot or, for variation, from the bottom up. A candidate's position on the ballot paper is determined by ballot and so who will gain advantage from the 'donkey' vote is largely determined by luck. While it is very difficult to exactly gauge the 'donkey' vote in a given electorate, it is generally accepted to be in the area of two percent.

Currently, when a vacancy arises in the House of Representatives it is filled in a by-election where the appropriate electorate goes to the polls again. Such elections satisfy the requirement in section 33 of the Constitution that writs for the election of a new member be issued. This can be compared with the Hare-Clark system as operates in Tasmania where vacancies are filled by a re-examination of ballot papers.

Main Provisions
Clause 4 will insert a new section 212A into the Commonwealth Electoral Act 1918 (the Principal Act). The proposed section will define favoured position which will be up to the three top and bottom positions on the ballot paper depending on the number of candidates. The proposed section will also require equal batches of ballot papers to be printed with the various candidates in the favoured positions.

Persons who unsuccess fully stood at the last general election in that electorate and who have not withdrawn their consent will be able to nominate to fill a vacancy (proposed section 286B) while proposed section 286C deals with how elections are to be held to fill vacancies. The Returning Officer is to recount the ballot papers from the previous general election and, after the distribution of preferences if necessary, determine which person has an absolute majority. That person is to be declared elected (clause 6).