**Episode 5 – Double majority**

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Kerry: This year, Australia will hold a national referendum. This referendum will ask voters if the Constitution should be altered to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

With Australia’s last referendum being held over 20 years ago, many might not know why they’re held or how to vote.

Hi, I’m Kerry, and in this podcast, I’ll be joined by the team from the Australian Electoral Commission to unpack the process ahead of the referendum so that you can vote with confidence.

This is an unbiased and detailed look at why the referendum is important, how you can make your vote count, and why your answer matters.

Last episode we briefly talked about the double majority subject with the team at the AEC, but I’ve decided we needed a little more time to cover this off properly.

So, Meg and Alex are back to go into a little more detail about double majorities and why we use them here in Australia. Before we start, Alex, could you just recap what a double majority is?

Alex: Yeah, sure. So, it’s a pretty important thing to know, especially you know, after six pm on voting day, when we start thinking about the count. It comes down to the Constitution being the most important document in Australia, really. So, it’s so important that it can’t just be changed with a national vote, you need the states to get on board as well. So, instead, there are actually two hurdles that you need to clear if you want to change the Constitution.

The first is that you need a majority of voters across Australia. So, that’s voters no matter where you are, if you’re in Australia, your vote is counted towards the national majority. The threshold there is of course 50 per cent of votes plus one. That’s either ‘Yes’ or ‘No’. Second, we get to the states. So, Australia’s got six states and for a referendum question to be successful, it needs to be agreed to by the majority of voters in the majority of states. So, that’s four out of the six states. So, if a question doesn’t reach both of those majorities, if it doesn’t pass both of those hurdles, it fails.

Kerry: Ok, so there’s kind of two of key tests that a referendum has to pass. If that’s the case, then why don’t we get two ballot papers?

Meg: When we count ballot papers, we include your ‘Yes’ or ‘No’ votes both towards the national result, and towards the state result. That’s why it’s so important as well to make sure that you update your enrolment details so that your vote can count in whatever state you live in or territory.

Alex: Particularly important if you’re moving interstate, yes.

Kerry: Are *your* details up to date?

Alex: Last time I checked, but I am about to move house. So, watch this space!

Kerry: Better get on that quickly then. You’ve mentioned states for the second hurdle but not the territories. So, what happens if you live in the Northern Territory or the Australian Capital Territory?

Alex: So, this is a question that we get a lot, and if you are living in a territory that does mean that you’re not living in a state and your vote can’t be counted towards any of the state totals. That’s not a rule that the AEC set in place, that’s something that is literally written into the Constitution, and it’s something that we have to abide by. Now, that doesn’t mean your vote is valueless. Your vote is in fact incredibly important - every answer matters at a referendum because you are still being counted towards that national tally. It does come down to the national vote, it’s one half of this vitally important count. So, if Australia nationally says ‘No’, then the referendum simply doesn’t pass. Likewise, if Australia nationally says ‘Yes’, it's halfway there and that's a really important test for it to reach.

Kerry: Why is it done this way?

Meg: When we hold a referendum, we have to follow the rules, and the Constitution is really clear that the votes from the Northern Territory, and the Australian Capital Territory and other external Territories can only be included in the national vote.

Alex: It’s actually because of a referendum that voters in the territories can participate in referendums at all. So, before 1977 it wasn’t allowed and that was just the rules set out in the Constitution, as Meg was saying. In 1974, it was proposed in a referendum, but did not get up. And then it was asked in a slightly different way in 1977. That referendum was successful and voters from the territories were allowed to participate in that national vote from 1977 onwards.

Kerry: So, are you saying we had a referendum about a referendum?

Alex: It was in fact, referendumception.

Kerry: Referendumception, I love that!

Kerry: How about overseas voters?

Meg: If you are overseas and you want to vote, you stay enrolled in the last electorate that you last voted in. If that was in a state, your vote will count towards the state result and if it was in a territory then your vote will still count towards the national majority.

Alex: What’s most important is you tell us if you are heading overseas. So, when you head overseas there’s actually a form that you can fill out on the AEC’s website just to let us know you’re out of the country. Why is that important? It’s because if you’re not able to cast a vote while you’re overseas, let’s say you’re out of touch, you’re not able to make to an embassy, or you’re not somewhere where a postal vote can get to you, that we don’t send you a letter asking you why you didn’t vote. If you’re overseas it’s actually a valid reason not to vote.

Kerry: So, two tests, and the majority of states, that sounds a bit more complicated to count. How long will we be waiting for a result?

Alex: So, if there’s a close result in any of the states or in the national vote, it might take a while for the count to be complete. That’s because we need to wait for it to be mathematically certain before we formally declare a result. Now, we’re actually anticipating that the count will be a little bit easier than it is at a federal election, because our staff are just counting ‘Yes’ or ‘No’ votes rather than numbers and making piles for preference flows, etcetera, etcetera. But there’s always that chance that, if a result is particularly close, we might need to wait that full 13 days, for every postal vote to return to the AEC before we can make a declaration.

Now, while the count’s ongoing, our staff will of course still be passing the results in, and our graphs will be updating on the tally room according to who’s voted for what and from which state and territory they voted.

Kerry: So, at the end of the day when I’m sitting at home and I’m waiting for that result after the day of everyone casting their votes, are you saying that the TV networks can kind of make a call but actually it’s not formally decided until the AEC have counted all the votes?

Alex: So, commentators can call the result of an election or a referendum before all of the votes are counted. However, the AEC won’t announce or declare a result until it is a mathematical certainty. For example, if one side is leading by 100 votes and there’s only 80 votes left to count, it’s mathematically impossible for the other side to win. So, that’s the point where we’d make a declaration.

Kerry: Does that mean that even after commentators on television have called a winner, the result could still change weeks later, when the AEC officially declares a result?

Alex: It tends not to, but you never know. What usually happens is the TV networks are, they’re actually using AEC data and applying their own modelling to that, going – well, the count’s looking like this at this point in the count and we think it’s going to continue looking like this, therefore we’re predicting the result is going to be X or Y. At the AEC of course we count your votes, we’re not modelling your votes. We are counting every single vote. In fact, we’re counting them twice because we want to be thorough.

Kerry: Well, I’m glad you’re being thorough. Meg and Alex, thanks so much for your time, and I’ll see you on the next episode.

Alex: Thank you!

Kerry: On the next episode…

Alex: If you want to change the Constitution there’s only one way to do it and that’s by holding a referendum. It’s not because the government wants to handball a question or pass the buck, it is literally because if they want to change the Constitution, they need the consent of the people to do it.

Kerry: …we’re tackling some of the most common misconception around referendums. That’s next time, on Your Answer Matters.

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