



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE 2016 ACT ELECTION AND ELECTORAL ACT

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Submission 24

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Inquiry into 2016 ACT Election and the Electoral Act

Introduction

I am pleased to respond to this Inquiry in my individual capacity, and drawing on my experience as an independent candidate in the 2016 ACT elections.

My comments on each of the Inquiry's terms of reference are provided below.

i. Lowering the voting age

Recommendation: No specific recommendation on this term of reference

In assessing proposals to lower the voting age to 16, it is important to consider the likely level of public support, and the desired outcome/s to be achieved.

Currently, no Australian jurisdiction has a voting age lower than 18 years, and there does not seem to be broad community support for lowering it. The 2010 Australian Election Study found that 72 per cent out of 2050 survey respondents said the voting age should "definitely stay at 18" while an additional 22 percent said it should "probably stay at 18."¹

A survey in Canberra in 2016 of 2000 12 to 25 year olds by the Youth Coalition found that 62 percent supported lowering the voting age to 16, but most of those respondents thought that voting by people under 18 should be optional rather than compulsory.² I could not find survey findings from a broader age range of the ACT population on this question.

If a key desired outcome of lowering the voting age is to increase political participation, is there any evidence of that occurring in countries or regions that have introduced a lower voting age?

Scotland provides one example, as the voting age there was lowered to 16 for the 2014 independence referendum. In that referendum, it appears to have had a positive impact on participation, with 16-17 year olds turning out to vote in greater numbers than 18-24 year olds³.

Austria provides another overseas example. Researchers there found that in regional elections, first time voters were more likely to vote at 16-17 than at 18-20 years.⁴

¹ Cited in Ian McAllister, *The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence*,

² ACT Youth Coalition, *Rate Canberra*, 2016, <https://members.youthcoalition.net/sites/default/files/documents/Rate%20Canberra%202016%20Report.pdf> downloaded 30 June 2017.

³ Dr Jan Eichhorn, University of Edinburgh, *Evidence: Scottish Elections (Reduction of Voting Age) Bill*, downloaded from the internet on 28 June 2017.

⁴ Research cited in Richard Berry, "How young is too young? The case for lowering the voting age", *The Conversation*, downloaded on 28 June 2017.

While there is some evidence of a positive impact on political participation, it is still not a large body of evidence, and more research into ACT residents' views on this issue should be undertaken. The following issues also need to be addressed:

- What preparatory work would be needed to inform and prepare 16-17 year olds and their families for such a change? eg what education initiatives in ACT colleges and other appropriate forums?
- Would such voting be optional or compulsory? The danger of optional voting would be to undermine the well-accepted ACT system of compulsory voting. The danger of compulsory voting is that many minors may end up being fined for not voting.
- Are there risks associated with increasing party political activity in colleges and schools and how would these be dealt with?
- Would other protections be needed to prevent the application of pressure on, or harassment of, minors eligible to vote?

ii. Improving donation rules and donation reporting timeframes

Recommendations:

- *There should be a ban in the ACT on political donations from property developers, and from foreign entities and citizens.*
- *Donations of cash and goods from corporate entities and individuals should be reported within seven days of receipt, and of in-kind services at completion of the service provision or once a threshold value of \$1000 has been reached. The details should be available publicly on the ACT Electorate Commission's website.*
- *Support a transition to a system in which candidates and parties raise funds from small individual contributions, and which caps donations at a maximum of \$1,000, adjusted for inflation.*

A ban on donations from property developers would be consistent with NSW legislation, which bans such donations, and which has survived challenge in the High Court. In the 2015 McCloy decision, the High Court decided that: "guaranteeing the ability of a few to make large political donations in order to secure access to those in power" was antithetical to the principle of the "equality of opportunity to participate in the exercise of political sovereignty."⁵

It would also be consistent with undertakings by ACT Labor, ACT Greens and several minor parties and independents, including myself, during the 2016 ACT election campaign, to seek bans on such donations.

Chief Minister Andrew Barr was quoted in *The City News* on 26 September 2016 as saying: "From today, Labor will no longer accept political donations from property developers, and in the next term we will bring to the Assembly a legislative ban on property developer donations. ACT Labor supports Federal Labor's proposed ban on international donations.

"We will investigate complementary schemes for public funding of election campaigns that encourage candidates and parties to raise funds from small individual contributions."

I support a transition to a system which encourages candidates and parties to raise funds from small individual contributions, and which caps donations at \$1,000.

⁵ Marian Sawer, "Australia trails way behind other nations in regulating political donations," in *The Conversation*, 2 June 2016, www.theconversation.com, downloaded 28 June 2017

With respect to international experience on donations issues, Canada is a useful model. At a federal level there and in some provinces such as Quebec and Manitoba, the Canadians ban all corporate or union donations to parties and candidates and limit individual donations to C\$1000 adjusted for inflation.⁶

Given the significant controversy in Australia currently about foreign political donations, perhaps the ACT could consider the relevant recommendation in the *Second Interim Report on the Inquiry into the Conduct of the 2016 Federal Election: Foreign Donations*. Specifically, it calls for a ban on political donations from foreign entities and citizens. One way of doing this is to limit donations to people who are on the Australian electoral role.

With regard to timing of reporting of donations, I support reporting of donations of cash and goods within seven days of receipt. With regard to donation of someone's time intermittently during a campaign, where the donor operates a business or is employed in the field of the expertise provided, the in-kind contribution could be reported once the work is completed or once its threshold value has reached \$1000.

iii. Increasing voter participation in elections and encouraging political activity

Recommendations:

- *Amend the Electoral Act to provide that any elector may vote at a pre-poll voting centre, without the need to declare that they are unable to attend*
- *Expand opportunities for electronic voting at polling booths, while ensuring high security so that such facilities are not at risk of being hacked or otherwise compromised.*

I have already made some comments on this in my response to Term of Reference (i) above.

As an Independent candidate in the 2016 ACT election, I consider that several factors corrode long term engagement in political activity by independents in ACT elections.

Probably the most important is the difficulty of competing with major parties in meeting the costs of election campaigns. The ACT Labor and Canberra Liberals MLAs voted in 2015 in support of the Electoral Act Amendment Bill, which removed the \$10,000 cap on political donations, and at the same time increased the amount a successful election candidate could receive in reimbursement from the public purse from \$2 to \$8 per first preference vote (this contrasts with a rate of about \$2.63 in the 2016 Federal election). One would have thought that quadrupling reimbursement would eliminate the need to remove the donations cap.

In this context, not only is an independent disadvantaged in capacity to attract as many, and as large, donations as the major parties, but then independents also face an uphill battle to secure sufficient votes to access reimbursement of costs after the election. See more about this issue under section (iv) below.

I agree that giving voters more options for voting could increase voter participation. Voter turnout as a percentage of eligible elector population was 88 percent in the 2016 ACT election, the highest rate of the last four elections. I understand from ACT Electoral Commission figures that 32.5% of voters voted before election day in the 2016 elections compared to over 25% in the 2012 elections. I see this as an inevitable trend, and support the ACT Electoral Commission's Recommendation 2:

⁶ Democratic Audit of Australia submission to 2010 ACT *Inquiry into Campaign Finance Reform*.

“The Commission recommends that the Electoral Act be amended to provide that any elector may vote at a pre-poll voting centre, without the need to declare that they are unable to attend”

33 percent of the votes in the 2016 election were cast electronically and so this indicates, as suggested by the ACT Auditor-General, that if given greater access, a higher percentage of electors would vote electronically.⁷ At the same time, the Auditor general found some shortfalls with security measures, and so if greater access is provided to electronic voting, high security is necessary to ensure the system cannot be compromised.

While I support more options for voters to participate in ACT elections, we need to make sure that they all have access to the information they need about candidates to make an informed decision. The ACT Auditor-General’s report on the election indicates that market research found the vast majority of electors were satisfied with the voting experience.

iv. Any other relevant matter
Expenditure Caps

Recommendation:

- *Retain the existing expenditure cap of \$40,000 for all candidates and third party organisations.*

I consider it important to retain an expenditure cap, as it is one way to level the playing field between major Party candidates and independents and minor party candidates. I agree with the current limit of \$40,000.

I do not support the ACT Electoral Commission’s proposed recommendation 7 below about lifting the expenditure cap for ungrouped candidates as it is not addressing the key barrier. No independent candidate came anywhere near the expenditure cap in the ACT election. Indeed, no independent candidate spent even half the \$40,000 cap.

ACT Electoral Commission: Recommendation 7

The Commission recommends that the Assembly consider whether it should amend the Electoral Act to increase the expenditure cap applied to ungrouped candidates to avoid the risk of impermissibly burdening the freedom of political communication implied by the Commonwealth Constitution. (See “Limits on election campaign expenditure” on page 64.)”

The problem is that the main parties can vastly outspend ungrouped candidates by fielding large numbers of candidates and hence gaining economies of scale in election expenditure, and by attracting large political donations.

I disagree also with the ACT Electoral Commission’s proposal to raise the expenditure cap for third party campaign organisations to \$60,000. While there might be exceptions, this is more likely to benefit organisations supporting major parties, and to disadvantage independents.

Reimbursement of expenditure by candidates receiving more than 4% of vote

In my view, it is unacceptable that the major parties voted a couple of years ago to increase the taxpayer funded reimbursement to \$8 for each first preference vote received by candidates with more than 4 percent of the first preference vote, while at the same time lifting the cap on donations. These actions have made it extremely difficult for minor parties

⁷ ACT Auditor-General’s Report, 2016 ACT Election, Report No. 2/2017, page 1.

and independents to compete with major parties in elections. If this level of reimbursement is retained, then there should definitely be more restrictions placed on the level of donations, as suggested in Section (ii) above.

Movable signs, roadside signs (corflutes) and related signs

Recommendation:

- *Limit the number of corflutes of each candidate to 100.*
- *Permit corflutes to be placed on main streets in suburbs leading to local centres, and on major arterial roads.*

As an independent candidate, I found it hard to compete with major party candidates in terms of their dominance of the public space through the use of corflutes. This was because each party had several candidates with their party's branding, and also because the sheer number of major party candidates' corflutes drowned out the smaller number of independent and minor party candidates' corflutes.

I support a limit of 100 in the number of corflutes that each candidate can place in the public domain.

I have reservations about Recommendation 5 of the ACT Electoral Office:

"Recommendation 5

The Commission recommends that, subject to consultation with Transport Canberra and City Services, the moveable signs code of practice be amended to provide that electoral signs displayed on public land may not be placed on suburban streets and may only be placed on specified stretches of major arterial roads, outside designated areas that have the special characteristics of the national capital. (See "Political party and candidate posters in public places" on page 51.)"

The electorate of Kurrajong has large areas of designated land, including the main avenues, and if corflutes are not permitted even on main streets in suburbs (eg those leading to suburban shops), candidates in Kurrajong may be disadvantaged compared to candidates in other electorates.

The restriction on canvassing and distributing material within 100 metres of polling places

I consider that independent and minor party candidates were disadvantaged by the prohibition on canvassing and distributing "how to vote" and other material within 100 metres of polling places. I found there were some voters, including mobility impaired voters, who sought candidate material and "how to vote" cards but had to go 100 metres from the polling booths to obtain the material and then return. It is important to retain an ongoing focus on how to improve access to candidate material.



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Kurrajong electorate, 2016 ACT election
30 June 2017

