

Dissenting Comments – Justice and Community Services Committee Inquiry into the Electoral Act Amendment Bill 2020

I would like to thank my fellow committee members for their consideration of the Bill. The Inquiry process has demonstrated the value of Committee inquiries into Bills, enabling a wider range of community views to be heard combined with presenting and testing evidence and viewpoints.

I do not support the Committee's conclusions for the following reasons:

- There was no substantive or empirical evidence to support the Committee Assessment of “...*potential impact on the mental health and wellbeing of young people...*” (Paragraph 5.5)
- There is no reason that the positive benefits extensively documented by overseas jurisdictions that have extended voting rights would be negated in our jurisdiction by compulsory voting. No evidence was presented to support the argument that “..*[it] will not automatically translate to the ACT context..*” (Paragraph 5.6).

I would like to provide the following comments against specific concerns raised during the inquiry.

Strength of evidence provided

Chapter 3 summarises the arguments presented but does not analyse the strength of evidence and rigor that lay behind submission statements.

Submissions to the inquiry, and accompanying hearings, could be regarded on a spectrum from expert to layperson, with a level of supporting evidence ranging from extensive to personal opinion only.

Community voices and expert evidence should play different roles in committee deliberations. Lived expertise often adds a depth of perspective and insights that are not represented through other means. In this case, however, we were dealing with a hypothetical change in voting age – so Canberrans were not able to speak of their experience with such a change.

Similarly, hearing the concerns of the public about proposed changes to policies is an important way to gauge public understanding and support of an issue. This may help in determining next steps, for example where work may need to be put into accurate and evidence-based education and communication. The Community Survey undertaken was an important part of a robust democratic process in order to understand the range of community views on issues of franchise, participation, and civic education.

The value of community views does not, however, preclude an evaluation of the quality and quantity of evidence provided. Evidence-based policy must have mind to, but look beyond, the vagaries of public opinion to understand the likely impacts of any kind of government

policy. To do so we often must look to the most comparable examples that currently exist. The ACT is an unusual jurisdiction both locally and globally. We cannot assume that impacts in other jurisdictions will necessarily translate perfectly to here. But we can look to the experiences of others to inform our conversations and policy formation.

In this vein, submissions in support of extending voting rights to 16 and 17 year-olds included strong evidence in the form of references to peer-reviewed journal articles across a range of relevant disciplines including psychology, sociology, education, youth studies, and medicine. Much of this research drew on extensive empirical evidence across the jurisdictions that have expanded voting rights to 16+.

Submissions that did not support extending voting rights had far less, or no, supporting evidence relying more on perceptions, anecdotes, or opinions. Bessant et al's submission also made this critique through a forensic and referenced analysis of common arguments against lowering voting age. They found "*arguments made against reducing the voting rely more on prejudice than rigorous empirical evidence*". As an example, one academic witness who did not support the proposed legislation was invited to demonstrate the evidence behind his assertions, but had failed to do so by the time of writing. We are therefore unable to rely on the substance of their arguments, and see these submissions as contributing to our understanding of public concerns, rather than having empirical merit.

The evidence for cognitive development and capacity was directly applicable regardless of jurisdiction and the compulsory or voluntary nature of voting. We can conclude from this that the weight of empirical evidence that "there are no credible grounds for continuing to believe that young people lack the relevant cognitive and moral capacities enabling them to vote", as argued by Bessant et al in their submission.

Exposing vulnerable cohorts to criminal penalties

The most consistent concern across all submissions was exposing young people to criminal penalties and the court system. This warrants attention, but unfortunately the range of possible solutions was not explored during the inquiry.

Critically, the concerns identified by the committee are not unique to 16 and 17 years olds and apply to Canberrans of all ages, and across many different offences.

For the population as a whole, the benefits of compulsory voting are seen to outweigh the costs of the consequences. It is perhaps time to re-examine infringement policies more broadly, and their inequitable impacts across the community. I would like to acknowledge the work and legacy of my colleague Caroline Le Couteur in this space.

The co-sponsors will explore these issues further.

Confusion across jurisdictions

Whilst acknowledging the inconsistency in voting across jurisdictions that the Bill would present, I am of the view that young people already have demonstrated capacity to manage cross jurisdictional variations in other aspects of life (for example road rules, public transport concessions or tertiary study applications).

I will note similar Bills to lower the voting age have been introduced in the South Australian, and Victorian Parliaments and are currently under consideration.

Regulating Political Activity in Schools

Schools should be encouraged to provide students an understanding of the democratic system, how to critically analyse political statements and offerings, and how to ensure their vote is valid. As Dr Barker and others stated there are potential efficiencies and effectiveness in doing all relevant and necessary education through the school system.

I support the ACTCOSS position that there would be a need for strong guidelines around electoral campaigning in schools. Any encouragement or inducement to vote in a particular direction in a learning environment is unacceptable. Whilst this may be easily managed within the ACT Government schools, some independent schools have previously sent material home with students intended to influence how parents and guardians should vote. Guidelines will need to be established to ensure schools do not actively electioneer.

I do note that in the ACT, students in their final years are frequently aged 18 and older. There have been no reports of 'politicisation of the school grounds,' or adverse effects or experiences within ACT schools from existing student cohorts who are already able to vote. No evidence was provided from overseas jurisdictions to demonstrate any such negative impacts had occurred when voting ages had been lowered. Therefore, this opinion lacks any substantive supporting evidence.

Consultation with young people

In developing the Bill the co-sponsors consulted with a variety of community organisations both run by and representing young people and advocates, as well as young Canberrans. Submissions refer to academic articles on young people's desire to achieve these reforms.

Voter accessibility

I also note one issue raised in the ACT Government's Submission not addressed in the committee inquiry was voter accessibility and the location of polling booths. I look forward to working with the Minister of Transport to ensure voters of all ages can catch accessible and affordable public transport to polling booths which are typically held in schools, that the 16- and 17-year-olds also attend.

Recommendation 2: The committee recommends that ACT Government explore ways to further engage young people in the democratic process

I do support Recommendation 2 in principle but view it as a substandard offer in lieu of the franchise, that simply kicks the can further down the road.

Conclusion

I would like to conclude by quoting the consensus committee report that considered this issue in 2007. This report did not mention criminal penalties, nor courts, nor fines, except to note that young people routinely face criminal courts and fines at much younger ages. Instead, that committee agreed:

“As the criteria for membership of the political community, the franchise is a valuable symbol of inclusion within democracies. Historically, the vote has been claimed and won by a number of distinct groups (including non-propertied people, Aboriginal people and women). Consequently, the criteria for enfranchisement have been expanded as our democratic system of government has developed and evolved. The vote, in this sense, has political value.”

“The franchise delivers a political dividend to those who are entitled by creating a political system that is responsive to the needs of voters. From this perspective, the difference for young people between having and not having the vote is a system that does or does not take genuine account of their political interests.”

Finally, I would like to sincerely thank everyone who took the time to respond to this inquiry.

Andrew Braddock MLA

17 February 2022