



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Jeremy Hanson MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair)

Mr Andrew Braddock MLA

Submission Cover Sheet

Inquiry into Electoral Amendment Bill 2021

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Mr Jeremy Hanson MLA
Chairman
Justice and Community Safety Committee

Dear Jeremy,

I am writing to the committee in relation to the Electoral Amendment Bill 2021 and the proposal to lower the voting age for the ACT Legislative Assembly.

Background

I have a psephological interest, civic interest, and follow developments in electoral matters around the world. I have been involved in a civil liberties council and Amnesty International.

Australia has generally been a leader in global electoral developments, such as secret ballots, preferential voting, independent electoral authorities, womens suffrage, womens candidature. In respect of 18 year old voting Australia was one of the first nations to provide for it. Western Australia doing so under the Premiership of David Brand of the Liberal Party in 1970, followed by all the other Australian states and Commonwealth by 1973.

Occasionally Australian political and community figures propose 16 year old voting, but in the case of the ACT in 2007, it was defeated. Advocates typically are aligned with interests that would benefit politically from even younger voters voting.

Internationally the number of jurisdictions with voting for 16 year olds is quite small.

Democratic states with 16 year old voting include Austria, Brazil, Malta, Scotland, Wales, Isle of Man, Jersey, Guernsey, Ecuador. Estonia does for local elections. For UK elections the minimum age is 18 years including for Scotland and Wales. Some Swiss local elections. Other states with 16 year old voting are Cuba which is certainly not democratic and voting is of questionable effect, Nicaragua is increasingly authoritarian and the effect of voting questionable.

Canada may reduce its voting age in 2022, Germany will reduce it voting age in 2022. Germany allows 16 year old voters in some state and local elections.

Iran has had a voting age as low as 15, but this was increased back to 18. The Philippines has had voting as young as 15 for youth councils. On voting for 16 year olds Luxembourg rejected a referendum on this issue in 2015 by 81% to 19%. New Zealand abandoned a proposal due to a adverse public reaction. Venezuela rejected such as measure in a referendum. Some US states allow under 18 year olds to participate in primary elections, with Puerto Rico allowing voting in local elections.

National minimum ages of 17 occur in democratic states such as Timor Leste, Greece, Indonesia. Whilst clearly not democratic North Korea, and authoritarian Sudan and South Sudan also have 17 year old voting.

The only known maximum voting age occurs in the Holy See where elections for the Pope is restricted to Cardinals under the age of 80. Bahrain, Cameroon, Nauru, Taiwan allow voting at age 20, Lebanon, Kuwait, Oman, Samoa, Singapore, Tokelau at 21. The United Arab Emirates use an electoral college system where one has to be 25 years of age at least to participate.

Some countries limit military voting (except North Korea which allows the military of any age to vote), Indonesia has no lower threshold for married persons to vote.

Explanatory Statement

I note the contents of the explanatory statement. The Australian Human Rights Commission unsurprisingly references the Convention of the Rights of the Child (CROC). Agency in terms of participation can be undertaken in many ways. Voting is only a small one.

The ABC's resident psephologist Antony Green often cites self interest as a motive for various electoral positions. I entirely agree with him. The only political figure another psephologist (Malcolm

Mackerras) could identify as acting to the disadvantage of his party interests was a former SA Liberal Premier Steele Hall.

My earlier point about advocates typically are aligned with interests that would benefit politically from even younger voters voting. Such is the case of the Whitlam Institute which is clearly associated with a political party interest. If one sees lists of organisations supporting 16 year old voting they are clearly all entities that would benefit politically from that position.

The arguments for a lowered voting age are:

- A belief that it would encourage engagement in civic issues.
- A belief that involvement would be well informed.
- A belief in actual participation, an actual impact and that new voices would participate.

The arguments against a lowered voting age are:

- Even younger voters might reflect their parents preferences more than now.
- The participation level might be low as it is in slightly older voters.
- Discouragement about political processes might set in at an earlier age.
- Whilst younger voting ages are argued for, it is at odds with sometimes higher qualifying ages for some offices (such as US President 35, and US Senators 30). Italy used to have a higher voting age for its Senate of 25 year olds.
- The threshold question is at what age do we think that impulsive or immature behaviour or judgement is not an issue.
- Given the assortment of ages that apply for the age of consent, criminal responsibility, driving, working, drinking, ability to enter into contracts, and been able to be called up for jury duty. Do we want more or less consistency, more or less illogicality?

Conclusion

I lean towards retaining 18 years as an age of majority, or voting.

If the age is changed I am sure the potential political impact is an obvious but unreferenced reason for their position.

If this age is changed, the impacts on other things are of consequence. I will use jury duty as an illustration. A 16 or 17 old elector been called up to sit on a jury trial, for possibly a long time. It would almost certainly interfere with schooling, study, and almost certainly generate another work around for jury exemptions. I consider that calling up a 16 or 17 year old to sit in a jury to be unwise. I suspect if you raised that as an option, the public response would be a lot stronger and much more adverse.

An 18 year old is generally able to make reasonable decisions. I benefited from the lowered voting age myself. I consider on reflecting on my personal experience that any younger (and that was when I was at school) that I could make an informed decision at 18.

My best wishes to the committee in its deliberations.

Martin Gordon
28 January 2022

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Mr Jeremy Hanson MLA

Chairman

Justice and Community Safety Committee

Dear Jeremy,

I am writing to the committee in relation to the Electoral Amendment Bill 2021 and the proposal to lower the voting age for the ACT Legislative Assembly. I had previously written and have provided a further contribution on reflection of some of the proposed penalty provisions.

In my earlier contribution I referenced international and Australian developments. I outlined the arguments for and against a lowered voting age. Apart from self interest motives by proponents (which Antony Green noted was a major driver in electoral changes), I noted increasing inconsistency by having more ages of different rights and responsibilities.

In respect of Section 73 (6) and Section 129 (1) a differential penalty of half the penalty of voters age 18 and over for failing to enrol and vote respectively. Having age differentiated penalties is clearly discriminatory and at odds with the notion of expanding the franchise partially on fairness grounds. Having a differential penalty regime for younger voters, might be argued for as younger people have lower incomes, but older voters irrespective of their age may be in similar financial circumstances, but do not gain from a penalty concession, due to their age.

A first principles approach would be a good idea. Consistency, equality of treatment, simplicity, equity suggest a single penalty regime, not an age differentiated one. The penalty for an offence should generally be the same, irrespective, or age, gender, or other characteristics. By way of clarification I am not being down on young people at all, I happen to find many of the harsher provisions say for driving offences for P-Platers is excessive, and they fall overwhelmingly on younger people. My criticism there is that a small group of younger people are differentially more harshly treated than the rest of the driving population, and it is unfair.

The proponents of this legislation propose a differentially more favourable treatment of an age differentiated group, whilst retaining the treatment of the vast majority of electors far more harshly simply because of their age, irrespective of their financial or other disadvantages.

In summary, the committee and the Assembly should reject differential treatment by way of penalties.

My best wishes to the committee in its deliberations.

Martin Gordon

29 January 2022

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