



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
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Submission Cover Sheet

Inquiry into 2020 ACT Election and the Electoral Act

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Submission to the Inquiry into the 2020 ACT Election ACT and the Electoral Act

While I think that the ACT has one of the best electoral systems in Australia, there are some small changes that I think would make it even better.

Independent Speaker

At present the speaker is one of the members of the Assembly and thus a person with strong political views and probably a member of a political party. The speaker's role also takes significant time and thus the speaker has less involvement in the normal political role of an MLA. I suggest that that has 2 disadvantages

The speaker's constituents get less attention than they would otherwise

The speaker's actions may not always be impartial, or may not be seen to be impartial.

The British parliament has attempted to reduce these issues by removing the speaker from day to day politics and having a convention of not standing a candidate to oppose them. You can see more at <https://theconversation.com/a-truly-independent-speaker-could-renew-australias-parliamentary-democracy-44915> While this may be good for the parliament it seems unfair to the constituents.

Kiribati has gone a step further. The speaker is elected by parliament, but not from its members. I suggest we do the same.

Like other parliamentary appointments it should require a 2/3 majority vote so most MLAs are happy with the outcome. I also suggest that the appointment of the speaker encompass an election and a period afterwards so that members will consider what speaker they would like if they were in either of government or opposition.

Public Funding for more than 1% of vote

I cannot see any reason, apart from making it hard for small parties and independents to compete in elections, to restrict public funding to only those parties or candidates that receive more than 4% of the vote. I suggest the threshold be reduced to 1%. It still takes substantial work or public appeal get 1% of people to vote for you.

Only allow donations to political parties from those who can vote in elections

It seems unreasonable to allow corporate entities to influence an election using their money when they cannot vote. However, the High Court does not agree with me. The High Court's interpretation of the Constitution includes the concept of an implied right to freedom of political communication. Unlike the United States Constitution, this right is not expressly part of Australia's Constitution.

Given that corporations have a responsibility to their shareholders to work in the shareholders interests, it must be that corporations think they will get a positive return for their donations to political parties. It is clearly possible for corporations to communicate political ideas to political parties without providing donations.

I cannot see why organisations and corporations have the same rights as voters. I would support the ACT joining with other states to launch a challenge to the High court to get a different interpretation of the constitution. Alternatively I think that a Constitution amendment to stop companies donating to political parties would be very popular and if there is a constitutional referendum about other issues, this could be added to it.

Even if the constitutional situation does not change, the ACT could still reduce the influence of corporate donors. I would support enacting the ban on donations from gambling entities that I moved in the Assembly last year, but was not passed. I note that NSW has banned donations from gambling entities.

Given the large sums of money spent on consultants and service providers of various sorts by the ACT government, I would also support a ban on political donations from entities that currently have, or have had over the last 5 years contracts with the ACT government worth more than \$100,000 in total. The threshold would exclude entities that only have a small involvement with the ACT government. The entities that have significant income from the ACT government have a clear economic interest in what the ACT government does. I think that it is likely that the High Court would support such a ban for that reason.

Electronic Voting

While electronic voting is very convenient and leads to a quicker result, it has some inherent security issues. In particular there is no way to audit if the votes cast are what are finally reported by ACT elections and the code is not open to sufficient public scrutiny. I recommend a review of electronic voting using both expert resources and public consultation. The aim will be to ensure that our system is secure, accurate and auditable.

Polling day or period

The 3 week polling period in the last election was clearly popular. However it has the disadvantage of making it harder for candidates and parties to communicate their policies to voters and to have proper discussion and a contest of ideas. It also diminished the community celebration of all voting together at our local school.

I suggest cutting the universal voting period down to one week, but having polling places open to say 7pm – except on the last day – so people can vote after work. This would give voters considerable flexibility in voting time and day while keeping the focus on the end of the election period when all policies should be on display and considered.

Voting material exclusion

Voters expect ACT elections to have ‘how to votes’ on site as they are for federal elections. We should harmonise the exclusion distance to 6m as with the federal elections.

Candidate Information Statements

I do not support the ACT electoral Commissions recommendation to stop publishing them – Recommendation 6. I think that making information available about candidates on an equitable basis is a reasonable responsibility for an electoral commission. It is done in Tasmania. We cannot be confident that other third parties will always do it. However Recommendation 7 is a useful administrative improvement.

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