

Introduction

Civil Liberties Australia (CLA) welcomes the opportunity to make a submission on the Electoral Reform Green Paper – *Strengthening Australia’s Democracy* (the Green Paper). CLA is a national organisation which works to safeguard the liberties and rights of individuals and actively monitors the use of power by State, Territory and Federal Governments. CLA supports the decision to have a national dialogue on Australia’s electoral system and other related issues. The importance of elections to the democratic process makes a review of the electoral system in Australia timely. CLA has commented on aspects of the Green Paper which concern us.

Chapter 2: Standards Qualities and Principles

CLA believes that all of the principles outlined in Chapter 2 of the Green Paper are important. However, some are more important than others in ensuring that the electoral system performs its primary function to give effect to the wishes of voters. To this end CLA submits that the most important principles in designing an electoral system are: representation, responsiveness, rule of law and an open political environment.

Representation and responsiveness are the central pillars of any truly democratic electoral system. Elections are the primary way in which the majority of citizens in Australia exercise their democratic right to be involved in the political process. Furthermore, in a representative democracy like Australia, elections provide the authority and legitimacy for the decisions of Parliament. For these reasons, amongst others, make-up of the Parliament should directly reflect the wishes of the people; citizens should decide who represents them through an election.

However, directly related to ‘representation’ is ‘responsiveness’: the two cannot be separated. Responsiveness means that the make-up of Parliament should promptly reflect the decisions of citizens at an election. An electoral system not responsive is also a failure of the Parliament to be representative.

Standing behind the concepts of representation and responsiveness is the rule of law. Having robust, clear and published legislation governing the conduct of an election, where the legislation mandates representation and responsiveness, is central to the operation of a true representative democracy.

For citizens to make an informed decision about who should represent them in Parliament, it is important that there is an open political environment. Specifically, there needs to be a free and comprehensive flow of information about the election, the candidates and the political issues of the day in order for citizens to make informed political choices. Of course, the open, free, comprehensive flow of information should characterise the entire life of any parliament and government.

Chapter 3: Legal Framework

Chapter 3 of the Green Paper seeks submissions on how best to ensure that citizens easily understand electoral laws and processes. Given the importance of elections to the legitimacy of Australia’s parliamentary system, CLA believes information and education is of central importance; however, it is not of itself sufficient, as more needs to be done to engage citizens in the political process. The Green Paper’s figures at paragraph 4.19 indicate that more than 1 million people entitled to vote for the 2004 and 2007 elections did not do so. The reasons for this cannot be easily identified, but a lack of appreciation of the voting system is certainly a contributor.

Parliament derives its authority from the people, and therefore it is important that the largest number of people possible cast informed votes, and take part in the democratic process. CLA believes that there are two key things that can be done to improve the understanding of the electoral process:

- Harmonising voting systems; and
- Education about both the electoral system and political processes.

We believe informing and educating Australians should occur particularly at key waypoints of life:

- 16-18 year olds: around the time of (preferably before) their first voting;
- 30-35 year olds: as they transition to parenthood, and educating their children; and
- 60-65 year olds: as they enter the final stages of life.

There are significant differences across the Commonwealth, states and territories as to the structure of the legislatures and the voting arrangements. In a country like Australia, where citizens are mobile and often move from state to state, it is understandable that people become confused as to what constitutes a valid vote in the state that they are in. Harmonising laws across all jurisdictions in Australia as much as possible would go a long way to improving citizens understanding of the voting process.

Providing information/education and empowering people to take political action are keys to the proper functioning of the electoral process. To this end CLA believes that education about the electoral process and the parliamentary system should start with mandatory civics education in schools. In primary years, the focus should be on the mechanics of the electoral and parliamentary system; in secondary years, the focus should be on how people can influence the system and achieve their wants/needs.

Chapter 4: The Franchise

For harmonisation and to aid understanding, the minimum voting age and prisoner voting rights should be uniform throughout Australia.

4.31 Citizenship should determine eligibility to vote. Remaining British subjects should be given one opportunity to exercise their current right to become citizens, then removed from the roll if they do not take it up. No further such rights for non-citizens should ever operate.

Permanent residents, as well as paying tax, derive income from the wealth and opportunities of Australia. Theirs is a fiscal relationship, not one of citizenship, and

they should have no right to vote unless they become a citizen. Because they owe no responsibility to Australia other than of a pecuniary nature, they should have no rights either.

4.41 Australians should retain the right to vote regardless of the period of their absence from Australia, or of their visiting Australia, provided they do not have the right to vote in any other nation.

4.45 Australians eligible to be sent overseas to fight for Australia should have the right to vote for the nation they 'defending' with their lives. Therefore all 17-year-olds should have the right to vote (any 16-year-old service people should not be sent overseas).

Involving youth in the electoral process would allow them to actively engage in the political process when they are learning at school about what citizenship means. In addition, young people are more informed than any previous generation, with instantaneous access to information resources because of the internet. CLA supports lowering the voting age to 17, when young people can fight to 'defend' Australia.

Improving education and communications means that 17-year-olds of today can have as much knowledge, information and awareness about the world in general, their nation and the local community as people in their 20s had 50 years ago. Provided they are appropriately informed and educated about their electoral and democratic options, they are a positive resource which the nation should be tapping.

CLA has argued in other forums, and supports in this one, that 16-year-olds should be eligible to vote in local government elections as part of the electoral education process (provided they live in the local government area).

4.51 If prisoners do not cease to be Australian citizens in jail, they should not be disenfranchised, regardless of the length of their sentence. CLA believes that people in prison who are citizens should have the right to vote. Prisoners are deprived of their liberty, which is their punishment. They retain their citizenship and voting is a right linked to citizenship.

4.60 The franchise should be uniform across Australian (and externally to Australia in terms of age provisions).

Chapter 5: Representation and Voting Systems

CLA is seriously concerned about the representation of the territories in the Parliament, which is not constitutionally guaranteed. Australia has seen several times in the past 15 years that the federal Government has selectively legislated or made executive rulings to discriminate against Territories (euthanasia and racial discrimination legislation in relation to the NT; civil unions in relations to the ACT). The rights of Territories to representation need to be entrenched through a referendum.

5.99 The issue of the disproportionate representation of States, with Tasmania as the prime example, must be addressed at some time in the future if Australia is to be a democracy with 'equal suffrage', as required by our binding commitment to Article 25 of the International Covenant on Civil and Political Rights.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

To take part in the conduct of public affairs, directly or through freely chosen representatives;

To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors...

(underline added)

Appealing to the democratic instincts of Tasmanians may be insufficient to secure the necessary vote, but there is a long tradition of 'stimulus measures' – cynics would use the word 'bribes' – that have served to secure Tasmanian compliance with national needs.

In this regard, a major one-off infrastructure project or other special concession (for a limited period) could be useful in securing such an important vote. A tunnel under Bass Strait could be such a project; a 10% tax concession for Tasmanians for a period of 20 years might be sufficient to secure the required vote.

For those who argue that such an approach to 'buying' votes is inappropriate, it is the system that was used to secure Federation. Unfortunately, the negotiated terms to secure Federation were not based on a one-off or time-limited basis, as is proposed by a tunnel or time-limited tax concession.

There may be a need for the three largest Australian States to similarly treat with SA and WA to secure a more equal democracy for the nation, as we are bound to be.

5.101 There is an urgent need to correct the anomaly that ACT electors enjoy half the franchise (120,000 electors v 60,000 electors) compared with the NT, in both the House of Representatives and the Senate. This can and should be corrected by a immediate vote of the Parliament ensuring that the representation from the NT and ACT involves as near as equal suffrage as possible.

CLA has written on this subject, at length and for a considerable period of time. In particular, one of the CLA Australia Day Letters in 2008 addressed precisely the unequal suffrage suffered by ACT electors in relation to the House of Representatives in particular. To download a copy of the letter, please click here:

http://www.cla.asn.au/Article/080126_ADay_Territorian.pdf?zoom_highlight=electoral-search=electoral

Chapter 7: Enrolment and Participation

CLA submits that changes need to be made to the close of rolls, at the very least the amendments made in 2006 need to be repealed.

Priority should be given to the importance of ensuring that the greatest number of eligible people possible have the opportunity to cast a vote. The effect of closing the rolls too early is to disenfranchise a large number of eligible voters. The practical issue of identifying fraud can be mitigated by employing additional people to undertake validity checks during the busy period.

CLA would support the most flexible enrolment regime possible as this would enfranchise the greatest number of citizens. CLA supports exploring the possibility

of permitting a voter to enrol and vote at the same time on polling day, on production at the polling booth of such documents or information.

7.34 CLA has proposed simpler ways of registering young people. A copy of the article is attached to this submission. See Appendix A.

http://www.cla.asn.au/0805/index.php/articles/2007/roll-up-roll-up-to-learn-how-to-drive-de?zoom_highlight=electoral

Chapter 9: Education For Electoral Participation

As stated above, CLA strong supports civics education. However this education should go beyond the machinery of the electoral system and Parliament. It should teach youth about democracy, activism generally, and the other ways they can get involved in the political process, including joining political parties and community organisations, and engaging with their elected representatives. A broader education on the political system as a whole could engage youth in society from an early age, and motivate community groups to become more involved politically.

9. CLA has made a lengthy submission on the issue Education in relation to the Parliament, and appeared at a Senate hearing. Unfortunately, some important elements of that CLA submission were not discussed because of the way the questioning developed at the hearing.

A URL to access that submission is below. In it, we point in particular to the need to focus specific electoral information and civic-involvement education* into the final years of high school, when students face the near-immediate prospect of voting, rather than in primary years. We also reiterate our contention that there should be much more extensive education of migrants and senior citizens (even people born in Australia), and that the education should concentrate on how the citizens can actively influence the thinking and decision-making of Parliamentarians.

** Information/education of a general nature is required in primary school.*

9.26 We strongly support the concept of civil society organisations educating people about how to use the system to achieve their wants and needs. There is a clear

concentration in all information and education currently on the mechanics of the electoral and parliamentary system. However, teaching people to become fully involved in civil society requires them to learn how to influence outcomes from the electoral/parliamentary system, not merely to understand how the mechanical aspects of the system work.

CLA contends that senior students, immigrants and senior citizens would be more keen to learn, would learn more and would become more electorally and civilly active, if they were taught how to use the system to effect changes they desire.

At the hearing mentioned above, CLA was criticised for using the word 'empowerment' to describe the type of information/education we propose. We repeat that 'empowering' citizens, in the correct use of that word, is precisely what we advocate.

We would be happy to work with the Government and/or the Parliament to design appropriate information/education materials and processes that would lead to more better informed taking a greater part in Australia's civic and parliamentary democracy.

For details of CLA's submission on 'Civic Education' in 2006, please click to download a copy:

[http://www.cla.asn.au/Submissions/060602Civics.pdf?zoom_highlight=electoral - search="electoral"](http://www.cla.asn.au/Submissions/060602Civics.pdf?zoom_highlight=electoral-search=electoral)

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Appendix A:

Roll up, roll up to learn how to drive democracy

There's a ready-made, simple solution to enrolling virtually all young people the moment they turn 18, says Civil Liberties Australia (CLA) Director Lance Williamson.

Pre-register them for the electoral roll when they sign up for their driver's licence.

Mr Williamson proposed his solution after the Australian Electoral Commission (AEC) told a parliamentary inquiry that online enrolling of young people was not possible, because they must physically sign the enrolment form.

The Joint Standing Committee on Electoral Matters heard that young Australian's wanted to enrol online, but it wasn't possible, even though online sign-up might arrest the decline in 18-25 age group enrolments.

"Most teenagers get their driver's licence as soon as they're old enough," Mr Williamson said. "When they apply for their learner's permit, they have to be present and meet the required 100 points identity check (proof of identity and residency). Coincidentally, under current electoral laws possession of a driving licence satisfies proof of identity and the AEC already has right of access to transport authorities records to confirm identity.

He said you only had to change the licence application slightly to achieve the dual outcome of voter registration and issuing of the licence, all under the supervision of public servants.

"As at present, young people over 17 years at the time of the licence issue could complete the enrolment process and the enrolment be automatically activated on their 18th birthday," Mr Williamson said.

ENDS

News article refers:

<http://www.news.com.au/story/0,23599,22011985-29277,00.html>