



30 March 2024

Committee Secretary
Joint Standing Committee on Electoral Matters

Dear Secretary

Inquiry into Civics Education, Engagement, and Participation in Australia

Thank you for the opportunity to make a submission. I do so in a personal capacity.

I welcome this inquiry because it is sorely needed. Citizen engagement in and knowledge of our democracy is at an unfortunate low. Australians can lack even the most basic knowledge about how their system of government operates, and often have false knowledge that undermines their ability to be effective citizens. Current approaches are not working.

The problem has been demonstrated over many years. For example:

- A 1987 survey for the Constitutional Commission found that almost half the population did not realise Australia had a written Constitution, with the figure being nearly 70 per cent of Australians aged between 18 and 24.
- The 1994 report on citizenship by the Civics Expert Group found that only one in five people had some understanding of what the Constitution contained, while more than a quarter named the Supreme Court, not the High Court, as the 'top' court in Australia.
- A 2015 research study by Ipsos MORI found that only 65 per cent of the 1,002 Australian adults surveyed had heard of the Australian Constitution. Those figures were only marginally higher than the 59 per cent of those surveyed who had heard of the US Declaration of Independence.

Such surveys reveal that the problem is not just a lack of knowledge among Australians, but also false knowledge. For example, it seems that most Australians wrongly believe that we have a national Bill of Rights. A 2022 Amnesty International Australia poll of 1606 voters by Pragmatic Research found that 51 per cent of those polled think Australia has such a law, 15 per cent correctly said that we did not, and 34 per cent were unsure. The level of error can no doubt be attributed in part to the frequent references to Bills of Rights in popular culture such as American television programs.

This has a corrosive impact upon our democracy. It enables manipulation of the public through false information, and can undermine trust in our political processes and institutions. Low levels of knowledge about our democracy along with disengagement are signs of an unhealthy system.

This was apparent during the 2023 Voice referendum, and indeed these problems tend to be exacerbated generally during referendum campaigns. A lack of knowledge, or false knowledge, on the part of the voter, can translate into a misunderstanding of a proposal, and the potential to be manipulated by the Yes or No cases.

Constitutional illiteracy makes it hard for people to understand why a proposal for change has been made and how it fits into the broader context of government. This creates opportunities especially for the No campaign. An example of this was the 1999 referendum, when the No campaign relied on the simple argument: ‘don’t know, vote No’. The same argument was applied in the 2023 referendum on the Voice. Rather than being encouraged to find out more, Australians were simply told to vote No.

Ignorance also makes it difficult to refute unscrupulous campaigning. In 1977, the Yes case found it difficult to respond to Sir Joh Bjelke-Petersen’s assertion that the Simultaneous Elections proposal could lead to the obliteration of the Senate. The 2023 Voice referendum saw a surge of misinformation, especially on social media. Again, few Australians were able to separate constitutional fact from fiction.

It is clear that there is a need for an ongoing process of educating Australians about referendums and the Constitution. The obligation to educate Australians about the Constitution and constitutional reform is a corollary of the obligation that the law places on Australians to vote in elections and referendums. Alfred Deakin, a former Prime Minister and one of the drafters of Australia’s Constitution, said: ‘It is our duty, when we ask electors to vote for or against momentous proposals of this kind, to give them the best material we have in order that they may form an independent judgment’.

What can we do?

Lack of engagement with our democracy and low levels of knowledge are not easily remedied. In particular, no remedy is likely to be effective if it is based only on the passive rollout of information. Instead, active citizen engagement from a young age is the most effective means of generating commitment to and trust in our democracy and understanding its operation.

This is one reason why I support lowering the voting age to 16 years. Ages 16 and 17 are an excellent time to begin citizen engagement through active participation, twinned with education. This becomes more difficult at age 18. Democratic engagement and learning to be a good citizen at a younger age is particularly effective when twinned with resourcing for education programs and programs of active learning. Existing programs such as schools constitutional conventions should be expanded and rolled out to all students.

A more systemic approach should be taken to education about our democracy and constitutional change. Constitutional reform in Australia has often been approached in an ad hoc manner according to the immediate political aspirations of the government without a meaningful attempt to educate and engage the community until it is too late.

A small, ongoing Constitutional Commission should be charged with reviewing the Constitution, generating widely-supported proposals for reform, consulting with the public on draft proposals and, after consultation, recommending them to Parliament. The body

should have a mandate to support civics education on constitutional matters within the education system and the broader community, including during referendum campaigns.

The membership of the Commission will be critical, and must be broad and inclusive. Former parliamentarians, local government representatives and constitutional experts should all be involved. So too should members of the broader Australian community. It could include people nominated by state, territory and local government. There should be an opportunity for the Opposition and minor parties to have a say on the Commission's membership. There is no point in creating a body that is incapable of bringing about broad political and community support for whatever proposals it puts forward.

The recommendations of the Constitutional Commission should feed into a regular, popular Constitutional Convention, convened once each decade or 'half-generation'. The Convention should consider the recommendations of the Constitutional Commission as well as proposals put to it by the federal Parliament, a majority of the states or by petition of a large number of individual Australians. The Convention should be charged with debating ideas for constitutional reform and recommending proposals to the federal Parliament for submission to a referendum.

The current mechanisms of constitutional reform prioritise polarisation, misinformation and community disengagement. A new model based on the Commission and regular conventions would bring to the fore community education and engagement. The work of the Commission should intersect with education in schools and provide regular opportunities for engagement by the broader community.

Disinformation must also be countered if the system is to improve. Civics education is undermined when there are not constraints on the ability to spread misinformation about electoral and referendum processes and our democracy. For example, the fact that the publicly funded Yes/No pamphlet for referendums can, without penalty, include plainly wrong information is a barrier to effective public engagement and education. Unfortunately, referendums are often characterised by a heavy reliance on material that is demonstrably false.

The *Referendum (Machinery Provisions) Act 1984* (Cth) should include a narrowly drawn provision for truth in political advertising. It should only target the spread of information that can be proven to be false. No attempt should be made to regulate opinion or ideas in contested areas.

There is a well-tested model for achieving this. South Australia has prohibited electoral advertisements setting out statements of fact that are 'inaccurate and misleading to a material extent' since 1985. A person can be fined \$5000 and corporations \$25,000 for doing so. The South Australian Electoral Commission can request the withdrawal of advertisements that breach this standard and the publication of a retraction to correct the public record. Violations can also be taken to court.

Yours sincerely

Professor George Williams AO