

Joint Standing Committee on Electoral Matters	
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The Committee Secretary
Joint Standing Committee on Electoral Matters
Parliament House
Canberra ACT 2600
AUSTRALIA

Dear Sir/Madam

Inquiry into 2001 Federal Election - Voting Rights of Overseas Australians

I am writing in response to the JSCEM's invitation for public comment as part of its Inquiry into the Conduct of the 2001 Federal Election.

This submission raises concerns regarding the voting rights of overseas Australians, as presently provided for in the *Commonwealth Electoral Act 1918* ("the *Electoral Act*").

1 Background

I am an Australian citizen, living in Melbourne, and currently enrolled to vote. I voted in the November 2001 Federal Election in the electorate of Melbourne.

I have no personal experience with voting from overseas, seeking to vote from overseas, or seeking to enrol to vote from overseas. However, I was horrified to learn from friends and relatives living overseas that many Australian citizens overseas are disenfranchised against their wishes. I was particularly shocked to learn that this meant that many Australians living overseas were unable to vote in the Referendum on the Republic in November 1999 – it seems extraordinary that any Australian should be denied the opportunity to have their say on an issue of such fundamental importance to all Australians.

The right to vote is a fundamental and universal human right. Australia is proud of its history of being one of the first countries in the world to give women the right to vote. Further, Australia is proud of the 1962 amendments to the *Electoral Act* which gave Aborigines the right to vote. The right to vote is a fundamental right

of all Australian citizens. It should not be denied to any Australian citizen simply on the grounds that they are residing overseas.

2 Specific problems with the *Electoral Act* provisions

2.1 Enrolment to vote from overseas

There are three main problems with the provisions entitling Australian citizens to enrol to vote from overseas:

- ***It is only possible for a person to enrol to vote from overseas within two years of leaving Australia.*** This provision is unfair and restrictive. Why should Australian citizens be unable to enrol to vote if they have lived overseas for more than two years? There are many reasons why people may not enrol to vote during the first two years they are overseas, including lack of awareness of the procedures for enrolling, difficulties contacting the AEC and simple oversight due to the huge amount of work and stress involved in relocating to a foreign country. These people are still Australian citizens and should not be punished with disenfranchisement simply because they did not enrol to vote within two years.
- ***It is only possible for a person to enrol to vote from overseas if they ceased to reside in Australia “for reasons related to the person’s career or employment or for reasons relating to the career or employment of the person’s spouse”.*** This provision also seems unfair, as it favours certain citizens over others, on the arbitrary basis of the reason for which they left Australia. I understand that the purpose of the provision is to ensure that people who enrol to vote from overseas are sufficiently “committed” to Australia, in that they only left for “good” reasons, ie to further their career. However, this seems to involve a value judgment which it is not appropriate to make when determining who is entitled to fundamental rights. Further, determining the subjective reason for which a person left Australia must present significant difficulties in practice.
- ***It is only possible for a person to enrol to vote from overseas if they intend to resume residing in Australia not later than six years after they left Australia.*** Again, this provision seems unfair and arbitrary. I understand that the purpose of the provision is to ensure that people who enrol to vote from overseas are sufficiently “committed” to Australia, in that they intend to one day return. However, I do not believe that intention to return to Australia is an indicator of a person’s “commitment” to Australia. Many Australians live overseas for a variety of reasons. However, this by no means diminishes their sense of being “Australian”, and of being interested in the present and future good government and well-being of Australia. Having lived overseas in Belgium for a year, I can say that the attachment to, and interest in, Australia is often greater when you are away from “home”.

2.2 Registration as an Eligible Overseas Elector

Further problems arise in relation to the provisions for registration as an Eligible Overseas Elector:

- ***It is only possible to register as an Eligible Overseas Elector within two years of leaving Australia.*** As discussed above, such a provision is arbitrary and unfair, and operates to deprive Australian citizens of a fundamental right simply because of the elapse of time.
- ***It is only possible for a person to register as an Eligible Overseas Elector if they intend to resume residing in Australia not later than six years after they left Australia.*** As discussed above, intention to return to Australia is no indicator of a person's "commitment" to Australia, and should not function as a limitation on the right to vote.
- ***An Australian resident overseas may only remain registered as an Eligible Overseas Elector for an initial period of six years, which can then only be extended on a year by year basis.*** Again, this provision reflects the assumption that a person who remains overseas for more than six years is somehow not "committed" to Australia, or does not have a valid interest in the way in which the country is run. I believe this is fundamentally invalid. There are many reasons why Australians may reside overseas for more than six years, or even indefinitely. However, this does not lessen their attachment to Australia and, in fact, expatriates often have a greater sense of national identity and pride, and interest in Australia, than Australians living in Australia. Why should these Australian citizens be denied the right to vote, and therefore be afforded lesser rights than other Australian citizens, simply because they are living overseas for a substantial period of time?

3 Conclusions

In my submission, the following amendments should be made to the *Electoral Act* to ensure that all Australian citizens, including those residing overseas, have the right to vote:

- in relation to enrolment to vote from overseas:
 - the two year time limit should be removed, such that Australians overseas can enrol to vote at any time;
 - the requirement that the person ceased residing in Australia "for reasons related to the person's career or employment or for reasons relating to the career or employment of the person's spouse" should be removed, such that any Australian overseas can enrol to vote, regardless of the reason for which he or she left Australia;
 - the requirement of intention to resume residence in Australia within six years should be removed;
- in relation to registration as an Eligible Overseas Elector:
 - the two year time limit should be removed;
 - the requirement of intention to resume residence in Australia within six years should be removed;
 - the time limitations on registration as an Eligible Overseas Elector should be removed, such that all Australian citizens are entitled to remain on the electoral roll, no matter how long they remain overseas.

In addition, steps need to be taken to ensure that Australian citizens relocating overseas are made aware of their voting rights, and steps which need to be taken for them to remain on the electoral roll, so that these people do not become disenfranchised through oversight. Methods which need to be considered include providing such information to Australian citizens passing through Immigration who indicate that they are exiting Australia permanently or for a substantial period of time.

The right to vote is a fundamental human right. In today's increasingly global community, it should not be denied to some Australian citizens simply because they happen to be living overseas.

Yours faithfully,

Jacqueline Mowbray