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Dr Kathy Edwards

Senior Research Associate in Child and Youth Studies
Faculty of Education and Social Work
University of Sydney
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Phone: (02) 9351 6211
Fax: (02) 9351 2606
Email: k.edwards@edfac.usyd.edu.au

Mr Daryl Melham,
Chair,
Joint Standing Committee on Electoral Matters,
House of Representatives,
Canberra,
ACT 2600.

May 16 2008

Dear Mr Melham,

Please find attached a submission to the JSCEM's current Inquiry into the Conduct of the 2007 Federal Election and Matters Related Thereto.

The Subject of this Submission is the closing of the electoral rolls following the calling of a Federal Election, and, in particular the effects of an early closing on the electoral participation of young Australians.

Current research is explored in this Submission including that of the Youth Electoral Study. This study was conducted by researchers at the University of Sydney and the Australian National University. The Australian Electoral Commission was the partner investigator.

The author of this Submission was a Senior Research Associate on this study. This statement is made to provide background in the case of any 'conflict of interest' and also to situate the Author in terms of her research expertise in relation to the topic. However views contained in the Submission are entirely those of the Author and are based on previously published research papers from the study and other relevant and related research. This Submission does not purport to represent the views of any other investigators or researchers on the Youth Electoral Study, or the AEC.

Nor do they purport to represent the views of the Faculty of Education and Social Work or The University of Sydney.

Yours Sincerely

Dr Kathy Edwards

Submission to the Joint Standing Committee on Electoral Matters Inquiry into the Conduct of the 2007 Federal Election and Matters Related Thereto.

**Dr Kathy Edwards
Faculty of Education and Social Work
University of Sydney**

1. Summary of Submission

This submission addresses the recent changes to Section 155 of the Commonwealth of Australia Electoral Act concerning the closing of the electoral rolls.

It raises concerns regarding the potential of these changes to disenfranchise younger voters (18-25), especially those who are socially excluded or marginalised.

This Submission argues that

- social, political and democratic inclusion, and, in accordance with this, equality, should be the core values of importance, especially given the lack of evidence that there are existing threats to the integrity of the Roll.

Its core recommendations, made in light of evidence considered from four academic and community sector studies, as well as broader literature on electoral systems, are that:

Recommendation One

- the previous period of one week for all electors to add or change details on the Electoral Roll following the issuing of the Writs should be reinstated, and;

Recommendation Two

- in the cause of increasing access to the franchise, the option of closing the rolls on the day of, or the day before, an election should be explored.

2. Ambit of Submission

This submission pertains to advice given in the Report of the Joint Standing Committee on Electoral Matters [JSCEM] following the 2004 Federal Election regarding the closing of the electoral rolls, and, specifically Recommendation 4 where it is stated,

The Committee recommends that Section 155 of the Commonwealth Electoral Act be amended to provide that the date and time fixed for the close of the rolls be 8.00pm on the day of the writs.

and Recommendation 5 (2.128) where it is stated (in part),

- Section 155 of the Commonwealth Electoral Act should be amended to provide for the date and time of the closing of the rolls as soon as possible within the life of the 41st Parliament;
- that the amendment to section 155 be given wide publicity by the Government and the AEC;
- that the AEC be required to undertake a comprehensive public information and education campaign to make electors aware of the changed close of rolls arrangements in the lead up to the next Federal Election;

These recommendations were considered by the 41st Parliament, and Section 155 of the Commonwealth of Australia Electoral Act (1918) now states,

COMMONWEALTH ELECTORAL ACT 1918 - SECT 155

Date for close of Rolls

(1) The date fixed for the close of the Rolls is the third working day after the date of the writ.

Note: However, generally names are not added to or removed from the Rolls after the date of the writ.

(2) In this section:

"working day" means any day except:

- (a) a Saturday or a Sunday; or
- (b) a day that is a public holiday in any State or Territory.

The 2007 Federal Election was conducted pursuant to the amended Act, as described above.

Previous to this amendment a period of seven days following the issuing of the writs was accorded to both new and re-enrolling electors to allow them to enrol or alter their enrolment details. In Submission Number 205 to the JSC EM Inquiry following the 2004 Federal Election the AEC noted that this 'grace' period has varied considerably during Australia's electoral history.

The seven day close of rolls period was inserted into s 155 of the Electoral Act by the Commonwealth Electoral Legislation Amendment Act 1983. Prior to this amendment, the close of the rolls had been on the date of the issue of the writ. However, there existed a regularly observed practice that there be a period of time between the announcement of the election and the issue of the writs, during which electors could update their enrolment details.

Except in 1983, when the writ was issued the day after the election was announced, since the 1940 election there had been a gap between the announcement of the election and the issue of the writ which varied from 5 days in 1949 to 63 days in 1958, with the average gap in the period from 1940 to 1983 inclusive being 19.61 days (AEC 2005a).

It could be argued that the flexible nature of this period reflects the character of the political landscape of the times; but most importantly it should be noted that there is no established 'best practice'. There is thus no entrenched reason to prevent its further change.

Internationally other similar democracies provide substantially longer periods than Australia. In the United Kingdom, for example, the rolls close 11 days before polling day, in New Zealand they close on the day before polling day and in Canada they remain open until polling day (Sawer 2006).

Chapter Two of the Report of the JSC EM Inquiry following the 2004 Federal Election highlights the integrity of the Commonwealth of Australia Electoral Roll as an issue of prime importance. The abovementioned recommendations and resultant legislative changes were made on the basis of concerns regarding the potential for electors to subvert democratic processes by enrolling strategically in marginal seats after the calling of an election. These concerns were voiced primarily by the Liberal Party of Australia, The Nationals and The Festival of Light. Of particular concern to these organizations, and to the Committee, was the high volume of new enrolments and changes of address that the Australian Electoral Commission [AEC] was required to deal with during this period. The Committee considered that this, combined with the available window of opportunity for (re)enrolment, might harm the integrity of the electoral roll by preventing the normally rigorous attention paid by the AEC to the veracity of enrolment forms.

Early closing of the Electoral Roll was opposed by a range of community groups representing disadvantaged and rural Australians. It was argued that early closing would result in the disenfranchisement of many Australians, including rural and disadvantaged electors. In Submission Number 205 to the Inquiry the AEC also assured of its ability to meet the high volume of enrolments made during the seven day close of rolls period in a fashion that protected against fraud and insured the integrity of the Electoral Roll. This Submission was not referred to or quoted in that part of the JSC EM Report that dealt with this particular issue.

It is important to emphasise that concerns regarding this matter do not come from the body charged with the responsibility of administering Australia's electoral processes, i.e. the AEC, and, in fact this body is confident of its ability to meet its statutory requirements in this respect.

Following the release of the Report of the JSCEM Inquiry concerning the 2004 Federal Election Professor Marian Sawer of the Australian National University [ANU] drew attention to the potential of the recommendations to damage Australia's democracy by threatening political equality and inclusivity (Sawer 2006, 9). Professor Sawer further noted the lack of evidence that fraudulent enrolments had in fact occurred. She drew attention to a 2002 National Audit Office finding that the roll demonstrated "96 per cent accuracy, which rose to over 99 per cent when matching the roll against Medicare data" (Sawer 2006, 3). Although not raised in the JSCEM Inquiry this information was publicly available.

Since the legislative change under discussion was made the Human Rights And Equal Opportunity Commission [HREOC] have also drawn attention to potential human rights concerns related to the recent changes (HREOC 2007). In particular they draw attention to the potential for the disenfranchisement of particular individuals and groups, including young people.

Put another way the recommendations of the JSCEM in 2005 were made on the basis of speculations and possibilities, not on evidence that any fraudulent activity had, in fact, occurred, and without due consideration of human rights implications. 'Integrity', or its lack, thus became a speculative issue, but the possibility that this could hypothetically occur was deemed more important than evidence that disadvantage to particular groups within Australian society was likely to occur should the rolls be closed early.

Given the above the current JSCEM should revisit the issue of the closing of the rolls in its Inquiry.

3. Key Recommendations

The groups that are the primary focus of this Submission are,

- young people (aged 18-25)
- young people (as above) who are socially excluded, marginalised or disadvantaged.

Concern has been raised in recent years regarding young people's purported lack of inclination to participate in multiple ways in Australia's democratic society. Most recently young people were a focus of another JSCEM Inquiry into Improving the Electoral Awareness of Young, Indigenous and Migrant Australians (JSCEM 2007). The AEC, through the Youth Electoral Study [YES, YES Project], has drawn attention to the disparity in electoral enrolments when these are considered on the basis of age (Edwards et al. 2006, 2). It is noted that only around 80% of young people between 18-25 are enrolled to vote, compared with around 95% of the Australian population when considered as a whole (Edwards et al. 2006, 2). Young school-aged people have been a particular target of the aforementioned education campaigns through the Discovering Democracy Curriculum.

The recent JSCEM Inquiry into Improving the Electoral Awareness of Young, Indigenous and Migrant Australians highlights the importance of making it easy for young people to enrol and vote (JSCEM 2007). For example a Victorian State Electoral Office initiative of sending birthday cards to young people reaching the age of the franchise is advocated as a good practice.

Whereas education is empowering and will provide young people with the knowledge, and therefore confidence, to become active democratic citizens, it is also true that young people face particular barriers to the franchise that educative strategies do not address. Practices such as sending birthday cards, whilst worthwhile and innovative, will also not address these barriers.

Young people facing social exclusion, marginalisation or disadvantage face added barriers. Social disadvantage leads to electoral disadvantage. Those most socially excluded and vulnerable in our society are further disadvantaged by barriers to our most precious and valuable political right. A response based on social inclusion and social justice would ensure that the access of these groups to the franchise was protected.

Above, the issue of the integrity of the Commonwealth of Australia Electoral Roll has been juxtaposed against the disadvantage that the early closure of this Roll causes a number of groups of Australians. Aside from the lack of evidence that there is any threat to the integrity of the Commonwealth of Australia Electoral Roll posed by a reasonable period before closure the issue here would appear to be one of core democratic values: should primary importance be given to integrity or to democratic inclusivity?

This Submission argues that

- social, political and democratic inclusion, and, in accordance with this, equality, should be the core values of importance, especially given the lack of evidence that there are existing threats to the integrity of the Roll.

In assisting young people, including those who are socially excluded, to enrol and vote and thus access the right of the franchise the following recommendations are made.

Recommendation One

- the previous period of one week for all electors to add or change details on the Electoral Roll following the issuing of the Writs should be reinstated, and;

Recommendation Two

- in the cause of increasing access to the franchise, the option of closing the rolls on the day of, or the day before, an election should be explored.

This does not preclude recommendations made by a range of academics and community organizations to previous JSCEM Inquiries that advocate other mechanisms to create access to the franchise for homeless persons, such as making it easier for these individuals to enrol as Itinerant Electors.

This submission pertains only to eligible electors. The author also considers that ‘eligible elector’ should be a category that is expanded to include many groups disenfranchised over the previous decade and who have not traditionally had access to the franchise in Australia. However this argument is both beyond the scope of this Submission and not substantiated by its evidence.

4. Evidence

Evidence for this Submission comes from four academic and community sector based studies.

The access of homeless people to the franchise has been a recent concern of service providers and community groups. This issue was addressed in Submissions made by the Public Interest Law Clearing House [PILCH] and Professor Brian Costar and Associate Professor David Mackenzie of the Institute for Social Research [ISR] at the Swinburne University to the JSCEM Inquiry following the 2004 Federal Election. In addition research carried out by Professor Brian Costar and Associate Professor David Mackenzie was the subject of a Research Report released by the AEC (AEC

2005b). This research is still current and relevant and aspects of it should be revisited and reconsidered in the context of the current Inquiry.

The study conducted by Professor Brian Costar and Associate Professor David Mackenzie comprised of interviews undertaken with homeless people of various ages around the Melbourne Metropolitan area. Its aim was to study the voting needs of homeless Australians.

The study undertaken by PILCH was conducted by the Homeless Person's Legal Clinic and also involved interviews with homeless people of various ages around Melbourne.

In addition two new studies have been conducted since the JSCEM Inquiry following the 2004 Federal Election, and results from these provide further evidence for discussion.

Hanover, a community organization also based in Victoria, conducted a study of consenting clients who used its services. This study was of 230 of their clients of various ages and followed the 2004 Victorian state election (Kolar 2007).

The YES Project was conducted between 2003 and 2006 by researchers at the University of Sydney and the ANU. It was funded by the Australian Research Council [ARC] and the AEC. The AEC was the partner investigator. The study aimed at exploring young Australians' attitudes towards voting, however more broad political and democratic attitudes were also investigated (Edwards et al. 2006 3-4). YES employed a mixed methodology combining a quantitatively focussed survey of Year 12 students in 2004 and qualitatively orientated focus groups with a variety of young Australians from sixteen disparate Commonwealth Electoral Divisions across Australia. Amongst the young people taking part in focus groups were schools students and more marginalised, or 'excluded' young Australians (Edwards et al. 2006, Edwards 2006c).

Reports and other research output from YES has noted a high awareness of the necessity to enrol to vote and to vote, that is, of the compulsory nature of voting in Australia amongst young people. They have also noted that most young people intend to enrol and vote (Saha, et al. 2005, 3-5, Edwards 2007, 85).

Commentators have pointed out the importance, in a normative sense, of creating 'good' voting habits early (Plutzer 2002). Put simply it has been suggested that voting (or not voting) is habit forming and that early experiences of either voting or abstaining are likely to be repeated. Research has also pointed to the possible negative effects on enrolment of requiring young people to enrol and vote at a crucial and busy time of their lives when they are variously studying for exams, choosing future pathways and negotiating the world as new or near adults (Franklin 2004).

YES showed that this was true for young Australians. Edwards (2006a, 2006b) notes the complexity of the period in which young people are expected to enrol and vote. Participants in YES highlighted the stress of exams, the 'scariness' of leaving school and the pressure of picking courses at university (or making other choices related to their futures). Young people were also doing work of an emotional or 'identity' nature. 'Leaving school' was seen as a big step towards independence, but it was also seen as move away from the emotional security of the 'known' and of friendship groups (Edwards 2006a, 2006b). This period of a young person's life is a developmental one. They are leaving an established and secure routine, familiar institutions and are having to make choices that will be crucial in shaping their future opportunities and lives. Young people are learning the ways of the adult world and finding their places within this. It is thus not surprising that participants in YES did not rate enrolling to vote as a task of high importance in the context of the 'busyness' of their lives (Edwards 2006a).

In addition youth is a period of mobility. A normative housing ladder for Australians sees them leaving the family home, living in various forms of primarily rented accommodation before finally owning a home (Casey 2002, 2). Although exact statistics are not available, the Australian Bureau of Statistics [ABS] estimates that few young people under the age of 25 own, or are in the process of buying, their own homes, and that the likelihood of a person living in a home that is owned or being purchased 'usually increases with the age of the household reference person' (ABS 2003).

The recent housing and rental markets have produced added complexities. Represented in a range of recent media accounts are concerns that many within the current generation of young people may never know the security and stability of homeownership. In addition, an effect of rising rents across most Australian capital cities is mobility, as renters in general traverse a property market where it is frequently necessary to move to affordable premises.

Young people who are socially marginalised, disadvantaged or excluded face additional and exacerbated barriers to the franchise. Many such young people are homeless and all face a range of complex social and personal issues.

Taking into account the complexity of homelessness in Australia the various findings of those reports specifically addressing the access of homeless people (of various ages, including young people) to the franchise include:

- Many homeless people do not vote (however some do) (Kolar 2007, PILCH 2005, AEC 2005b)
- Many homeless people are not enrolled to vote (Kolar 2007)
- Homeless men are less likely to vote than homeless women, although women with childcare responsibilities are significantly less likely to vote (Kolar 2006)
- Complex factors contribute to non-enrolling and voting. Those that are significant include dealing with other life issues (Kolar 2007), lack of awareness that an election is on (Kolar 2007), belief that it is not possible to enrol and vote without a fixed residential address (PILCH 2005), lack of understanding regarding the Itinerant Roll (PILCH 2005), procedural hurdles posed by the Commonwealth of Australia Electoral Act that make it difficult for many homeless persons to enrol and vote either as ordinary or itinerant electors (PILCH 2005, AEC 2005b) and lack of civic literacy and competence (AEC 2005b).

YES also focussed on homeless young people. In addition its scope was also broader and included young people excluded and marginalised by other factors such as unemployment, substance abuse issues and similar (Edwards 2006b, 2006c).

A recent report released by the National Youth Commission [NYC] on homeless young people points out the complexity both of describing the homeless and of homelessness as a social issue (NYC 2008). Results from YES echo this (Edwards, 2006c). For example young people were described as being in a number of different housing situations, including living for extended periods as guests in others' houses (couch surfing), holding a number of consecutive short term leases, moving frequently following employment opportunities, living where they could (including in cars), etc. (Edwards 2006c). Many of these situations do not fit established definitions of homelessness (noting also that aside from the categories used by the ABS when counting the homeless that there are multiple definitions and categorisations). What is crucial is that access to stable housing, and thus a constant and consistent address, was problematic for many young people. Whether or not they could be categorised as 'homeless' by established or other definitions mobility was extremely high.

Also noted was the propensity for these young people not to be enrolled to vote (Edwards 2006c).

Aside from homelessness / mobility these young people experienced other concerns that made enrolling to vote a difficult or costly activity, or which took precedence over this activity. The relationship of these activities to homelessness / mobility was complex and multifaceted.

Noted by Edwards (2006c, 7) is,

A common reason given by participants who were not enrolled to vote was that enrolling took time and energy, precious resources that in their daily struggle to acquire the basics of living they did not have. Where enrolling necessitated constant amendments, this task was made all the more arduous. Many thus told us they ‘had other things to worry about’ and that voting was ‘not important’. Dylan, from the Seaside Youth Centre, told us, ‘politics was pushed back at the furthest part of my brain, my safety was my issue’. Sandra had enrolled to vote, but she had since moved house, (six times in the last three years) and was unsure if she was still enrolled. She didn’t know how to re-enrol and was not interested in finding out, indicating that she had ‘other priorities’.

The young people described above faced a daily life characterised not only by concerns about shelter, but also about other crucial life issues. These could include food security, violence, health issues, care of dependents, negotiating complex bureaucracies, legal issues, gaining employment and maintaining enrolment in education or training. Kolar (2007), as described above, also draws attention both to other ‘life issues’ and the added complexity for those (female) voters with dependents.

With respect to access to the franchise these young people face similar, yet more complex and exacerbated, barriers to those negotiating ‘normal’ transitions. Mobility is clearly a vital issue and concern, and it is clear that many have day-to-day priorities around survival and security that make enrolling to vote a minor concern. Rather than castigating these young people for their lack of civic virtue a government concerned with social inclusion and social justice would focus on breaking down the barriers that stand between them and the franchise.

5. Conclusions

The debate about the closure of the electoral roll has been described as one involving sets of values; integrity of the roll versus inclusivity and equality. The lack of evidence that electoral fraud has in fact occurred has been noted, and it has been argued that there are good reasons to privilege the values of inclusivity and equality with respect to access to the franchise.

With respect to young people the first point of note is that most are aware of the necessity to enrol to vote and most intend to do so. The ‘gap’ between the electoral enrolments of young people and the wider eligible population in Australia thus does not seem to be related either to their lack of awareness or forms of objection. This Submission has considered the issue to be related to barriers experienced by young people to the franchise. Where social, political and democratic inclusion are core values priority should be given to addressing these barriers.

It has been shown that it is easier to maintain a correct and constant enrolment if a person has a stable address, as opposed to being mobile and having multiple consecutive addresses. Simply the ‘cost’ of enrolling to vote is less if a voter only has to do so once, as opposed to having to remember to do so at intervals, in the midst of upheaval and change. There is also potential here for electors to fall off the roll. These costs and potentials increase where a young person is socially excluded, disadvantaged or marginalised.

The 'busyness' of young people negotiating 'normal' transitions from school to the workforce or to further study has also been described. Again, it has been shown that socially excluded, marginalised or disadvantaged young people face a more complex set of circumstances that often necessitate them prioritising issues of survival and security.

Where young people's engagement with the franchise is an issue of concern it makes logical sense to dismantle as many barriers to the franchise as possible, thus increasing their potential access. This includes making it easier for them, and other eligible electors, to enrol and vote by extending the period in which they are able to do so following the calling of an election. It is during this period that young people may move the issue of enrolling from a 'future' to an immediate concern. In addition, those who are currently on the electoral roll, but are frequently mobile, will have increased opportunity to enrol at their current address. This may in fact increase the integrity of the electoral roll by ensuring that such details are updated and electors are enrolled, and vote, in their correct divisions.

Above it has been noted that there is no consistency in an Australian context regarding this close of rolls period, and, also, that other democratic nations have substantially longer and more generous periods than Australia. In order to promote social, political and democratic inclusion there is thus no reason why the Inquiry should not recommend a return to the previous seven day period allowing electors time to enrol or modify their details. Given international practices that allow for even greater access to registering on electoral rolls it is also recommended that the possibility of closing the electoral rolls on the day before, or even of, the election be investigated as a possibility for future elections.

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