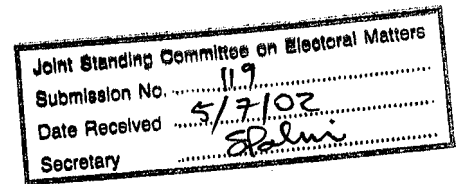


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The Committee Secretary
Joint Standing Committee on Electoral Matters
Parliament House
Canberra ACT 2600
AUSTRALIA



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4 July 2002

Dear Sir,

This submission is in response to the JSCEM's invitation for public comment as part of its Inquiry into the Conduct of the 2001 Federal Election.

Personal Background

I am an Australian citizen, and lived in parts of Sydney pretty much since voting age. In Sydney I completed a law degree with SAB and worked as a solicitor in Manly. In 1994 I left Australia to take up a position as a solicitor with a firm in Hong Kong. About 4 and a half years later I moved to Brussels to take up a position as a lawyer in a Belgian firm and about eight months ago I moved to Spain to take up a position as attorney/solicitor with a English/German/Dutch/French firm in Alicante where I am now living.

The path of my career has not been made according to any method or plan but simply came about because opportunities presented themselves along the way. In the course of my career I have been admitted as a solicitor of the Supreme Court of NSW, the High Court of Australia, the High Court of Hong Kong and the Supreme Court of England and Wales.

The issue of overseas voting really only became important for me during the Referendum on the Republic in 1999. Until that time I simply assume that I was able to send postal votes from wherever I was.

During the 1999 Referendum I was living in Brussels and attempted to lodge my vote at the Australian Embassy. Whilst there I was asked by the Embassy staff how long I had been out of Australia and when I told them they told me I was probably not registered anywhere and that I would have to re-register. I was handed all the appropriate forms and attempted to re-register at my parents address.

Later, my mother told me that she had received a letter from their electoral office saying that I was not eligible to re-register as I had been out of the country too long. Well as it happens I voted anyway.

But this is the crux of the matter. This was the first time I realized that I could not vote as an Australian citizen on an issue that is deeply important to me and goes to the heart of my identity as an Australian. Certainly some issues which are being fought over in local elections may not affect me living abroad. But the matter of the future of my country and the Republic issue affects

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all Australians everywhere. Not being able to have my say deeply shocked me. Just because I live abroad does not mean that I don't feel Australian. Every time I return for holidays and to visit my family brings home to me how Australian I am and how deeply proud I am of that. I love being an Australian abroad, it is a chance to exchange views and experiences. All of us Australians living abroad are unofficial ambassadors for our country in some small way. We should all have the right to have a say in the future of our country.

I understand that I can re-enrol on the electoral role if I live in Australia again for a period of one month or more. However, it is impossible for me to take that amount of holidays from my job in one hit and highly unlikely that I will be able to spend a one month stretch in Australia. So I will not be able to re-enrol until I might decide to move back to Australia. I have no immediate plans to return to Australia but it cannot be ruled out. I still consider Australia as my home, my family are there, I grew up there and even if I were to take on another citizenship it would only be for ease of living and working. I would also consider myself Australian. As it is I have no right to express my view in any system anywhere.

And it seems that non-Australian citizens have greater voting rights than some Australian citizens. I read that British subjects who are not Australian citizens, but who are resident in Australia and who were on a Commonwealth Electoral Roll on 25 January 1984 were eligible to vote in the referendum on the Republic, whereas I and a number of other Australian citizens, were prevented from doing so. Media reports indicated that between 200,000 and 600,000 non-Australians were able to vote in the Referendum on the Republic.

The Department of Foreign Affairs and Trade (DFAT) estimates that in 2001, there were approximately 860,000 Australians overseas. However it seems that less than one-tenth of this number voted in the November 2001 election. Whilst there are always many Australian tourists abroad it would appear that perhaps as many as 500,000 Australian citizens overseas are disenfranchised. Didn't all these people have a right to say how they felt about the issue of "Republic or not".

It is incredible that a non-Australian should be able to vote on an issue of such critical importance for Australia's future, as well as in federal elections, when up to 500,000 Australian citizens are prevented by the law from doing so. The right to vote is, after all, a fundamental right attached to citizenship. A poll taken by AGB-McNair in August 1996 indicated that over 80 percent of Australians believe that only Australian citizens should have the right to vote in Australian elections and referendums.

Enrolment from Overseas

Amendments to the *Commonwealth Electoral Act 1918* made just before the 1998 federal election have allowed Australians to enrol to vote from overseas for the first time in history. However, the limitations attached to this mechanism render it useless for many overseas Australians. For example, the two-year time limitation on enrolment from overseas is unjustifiable.

For those Australians who left Australia to live overseas more than just a few years ago, the provision is useless. They had already been wiped off the electoral roll long ago and at the time the provision was introduced, had left Australia much longer than two years before.

Even for those who have left Australia more recently, the provision is extremely limiting, especially when combined with the total lack of information which is made available on overseas voting and enrolment to Australians departing the country. Until an election is imminent, an Australian, such as myself, who has moved overseas may not think to address the issue of his enrolment status.

If a person is removed from the electoral roll, very often it will not be until two years after they left the country, and by the time they discover that they have been removed, the two-year window of opportunity will be long since past.

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Re-enrolment is then impossible, unless the person returns to Australia for at least one month. A person who is prevented from enrolling to vote is effectively disenfranchised.

There seems to be no justification for limiting the period for enrolment from overseas to two years after the date of departure. Any Australian citizen should be able to enrol to vote, at any time.

United States citizens living overseas may vote at home no matter where they live or how long they have been away from the United States. Before each election, they simply register to vote.

Another restrictive prerequisite for overseas enrolment concerns the reason for leaving Australia. Enrolment from overseas is currently only possible if a person has 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".

An Australian citizen and passport holder has the right to enter and leave Australia at any time. The reasons why a person leaves the country should be irrelevant to their right to vote. Anything else is discriminatory.

Another illogical prerequisite for enrolment from overseas is that the applicant must *intend to resume residing in Australia* not later than six years after he or she ceased to reside in Australia.

Eligible Overseas Elector

Apart from the difficulties surrounding the provisions on enrolment from overseas, the eligibility requirements for registration as an Eligible Overseas Elector, which apply to those on the electoral roll when they leave Australia, are discriminatory in more than one respect.

An Australian citizen should be able to vote while they remain an Australian citizen, regardless of where they are, and how long ago they left Australia, and what their intentions are. Eligible Overseas Elector Status should not be restricted to those whom the Government judges to somehow be more "committed" to Australia because they have stated an intention to return to live in Australia within six years.

In any case, there is no way to assess whether a person really has a particular intention or not. Intentions may only be proved by actions over time and intentions change. My career for example has no plan, I made it up as I went along. I may still come back to Australia or I may not, I do not have a crystal ball.

The law currently places an obligation on those who are eligible overseas electors to inform the AEC as soon as they "abandon the intention to become resident again in Australia within six years after ceasing to reside in Australia". I doubt that many eligible overseas electors will even know of the existence of this requirement let alone voluntarily come forward to disenfranchise themselves if they did know about it.

An overseas Australian may only enjoy the status of Eligible Overseas Elector for an initial period of six years. However, it is my opinion that the right to vote should be available to any Australian citizen overseas, regardless of how long he or she has been overseas. Eligible overseas elector status should be an indefinite status.

Although the status can be extended progressively for one-year periods after the initial six years, many eligible overseas electors will be disenfranchised at the six-year point, because they will not know that the onus is on them to renew.

A person who is already on the electoral roll when they leave Australia can apply for eligible overseas elector status without having to state that he or she left for career or employment reasons or those of their spouse. This is as it should be. But the fact that the requirement exists as a prerequisite for enrolment from overseas when the person is no longer on the electoral roll is discriminatory and unnecessarily restrictive.

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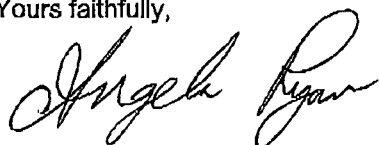
Conclusion

In conclusion, the following amendments should be made to the *Commonwealth Electoral Act 1918*:

- The two-year limitation on enrolment from overseas should be deleted and enrolment should be possible for Australians overseas at any time;
- The two-year limitation on applying for eligible overseas elector status should be deleted and application for this status should be possible at any time from overseas, as long as the Australian citizen is still on the electoral roll;
- The requirement that a person have left Australia for employment reasons or that of his or spouse, in order to qualify for enrolment from overseas, should be deleted;
- The intention to resume residing in Australia should no longer be a requirement for either enrolment from overseas or the attainment of eligible overseas elector status;
- The six-year limitation on absence from Australia should be deleted from the provisions on overseas enrolment and eligible overseas elector status in the Act.

These amendments would restore the right to vote to all Australian citizens of voting age who overseas.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Angela Ryan', written in a cursive style.

Angela Ryan

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