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ACCESS TO ELECTORAL RIGHTS: AUSTRALIA

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Access to Electoral Rights

Australia

Graeme Orr[*]

1. Introduction

This report discusses the law governing electoral rights in Australia – with a focus on the ability to vote and stand for elected public offices.

A federation of six states, with two mainland territories, Australia is governed in the Westminster tradition. That is, governments are drawn from parliament, rather than via a presidential system. The only directly elected executive offices are those of mayor in some local governments. Of the nine jurisdictions, including the national (a.k.a. Commonwealth), six have bicameral parliaments consisting of an upper 'house of review' as well as a lower house where the government is formed. The remaining three are unicameral.

Electoral law in the country is subject to limited constitutional prescriptions. In effect, it is largely left to each legislature. The Australian parliament regulates national elections, as well as setting the parameters of the electoral systems of the several territories that are ultimately under its control. In turn, state parliaments regulate state elections, as well as local elections within their borders. Only in 2006 did Australia's High Court imply a guarantee of a universal franchise, out of the *Australian Constitution's* requirement that parliament be "directly chosen by the people".[1] Even then, parliaments are entitled to carve out reasonable limitations on both the right to vote and stand for election, and the mechanisms to achieve those rights. Obvious examples are minimum age and mental incapacity. The Court in that case ruled that long-term prisoners could be disenfranchised during their incarceration, and it also suggested that there was no constitutional barrier to limiting the franchise to citizens only.

Australia was at once a forerunner of democratic emancipation in lifting restrictions based on class and gender, and simultaneously a 'dominion' of the British Empire, founded on a 'white Australia' immigration platform. With a few exceptions, Australia's immigration intake remained focused on British, Irish and north-western Europeans until after second world war. Since that time, first with an influx of southern European migrants, then Asian, Middle-Eastern and now African migrants, Australia's immigration intake has become decidedly cosmopolitan. Multiculturalism has become the official policy of all the parliamentary parties.[2] As a legal manifestation of the British Empire, however Australia did

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[1] *Roach vs. Electoral Commissioner* (2007) 233 Commonwealth Law Reports 162, drawing on *Australian Constitution* sects. 7 and 24.

[2] With the exception of the One Nation Party, which rose for a time in the 1990s, deflated but has now reappeared as an electoral force since 2016.

not introduce citizenship as a formal legal category until 1948 (Rubinstein 2017: ch. 3). Only in 1984 did citizenship become a pre-requisite to voting rights. Once they turn 18, Australian citizens are required by law to enrol to vote.

In short, modern Australia is a multicultural nation, with over a quarter of its population born overseas. Despite that, and despite neighbouring New Zealand extending voting rights to resident non-citizens, there has been no significant push for enfranchising all permanent residents in Australia.

Conversely, there is a sizeable Australian diaspora, in particular of young professionals enjoying economic or cultural opportunities in major international cities. There has been agitation in the past 10-15 years to extend the voting rights of non-resident citizens (Mercurio and Williams 2004). However whilst enrolment procedures have been simplified somewhat, the franchise of Australians resident abroad remains limited to those who can declare an intention to return, initially within six years of their leaving the country.

The universal voting age was lowered from 21 to 18 in 1974. Recent suggestions to lower the voting age to 17 or 16 have gained little traction.[3] This is the case even amongst younger people. As we will see evidenced in fluctuating enrolment figures, and in common with many in the West, younger Australians in particular have shown declining levels of faith in electoral politics in the past decade.

2. Historical background

The Chartist movement and trade unions found fertile soil in nineteenth century Australia. As a result, ideals of responsible and representative parliamentary government, and the principle of universal suffrage, overcame conservative resistance earlier than in most parts of the world. Australia was an electoral innovator in the second half of that century. The 'Australian ballot' was pioneered and implemented in the 1850s, in the form of an officially printed and guaranteed secret ballot (Brent 2006). Women were enfranchised in several colonies in the 1890s, not far behind neighbouring New Zealand (Oldfield 1992). Federation – the movement to unite the six colonies into the nation of Australia – was driven by local politicians and culminated in the adoption of the *Australian Constitution*, in 1900, by popular vote in each of those colonies. Australia is thus a rare example of a nation born through peaceful means via the ballot box.

The experience of colonisation however was mired in racialism. 1902's inaugural franchise for national elections extended the vote to all male and female residents who were subjects of the British Crown. But 'aboriginal natives' of the then British Empire were largely excluded, with the exception of New Zealand Māori.[4] Indigenous Australians were not fully enfranchised at national level until 1962. (For a full and critical account of the evolution of the Australian franchise, see Brooks 1993. On racial and gender exclusions also

[3] Periodically, the question of the minimum voting age is raised, noticeably by The Australian Greens political party and by a parliamentary committee in the progressive Australian Capital Territory (Standing Committee on Education, Training and Young People 2007).

[4] Māori had had many decades of economic and social contact with the east coast of Australia. Moreover, New Zealand was still expected in many quarters to take up the option, left open in the *Australian Constitution*, of becoming a state of Australia.

see Chesterman and Philips 2003.) To this day, the *Australian Constitution* contains no explicit guarantee of voting rights. All it explicitly did on this front was to preserve the franchise of those individuals who possessed the right to vote at state level, at the time of federation in 1901.[5]

In the first half of the twentieth century, Australia was at once an independent country yet also a 'dominion' of the broader British Empire. This explains the retention, until 1949, of a franchise based on residency and subjecthood of the Crown. Legislation to define 'citizenship' was not enacted until 1948. The eventual adoption of a citizen-based franchise in 1984 thus presents an irony: the franchise of an immigrant nation was geographically more welcoming in the days of the 'white Australia policy' than it is in the multicultural present. A key explanation for this is the formal and symbolic value nations invest in the administrative category of 'citizenship'. In Australian electoral law, that approach remains ascendant over more substantive arguments based on the principle of 'no taxation without representation' or the value of politically integrating immigrants who have permanent residency.

For national elections, electoral enrolment became compulsory from 1911 and lodging a ballot became compulsory from 1924.[6] Each form of compulsion contributes to high levels of turnout by international standards. Together they dampen electoral volatility and may assist in generating a more inclusive politics. Although compulsion was adopted for pragmatic and even partisan reasons, the courts have consistently found it to be constitutional (Twomey 2013). It enjoys high levels of acceptance according to opinion polls, and the various political parties continue to support it. Compulsory turnout now applies to all three levels of elections, with exceptions for citizens abroad and a few aspects of local government.[7]

Representation, voting methods and compulsion in eliciting electoral preferences

Elections at all levels in Australia are predominantly conducted by the 'single transferable vote' method.[8] In single-member electorates, which apply in almost all of Australia's lower houses,[9] the voting method is known as 'preferential voting'. (Or, to use synonyms better known overseas, 'AV', the 'alternative vote', and 'instant runoff' voting). This method was first employed at national elections in 1919. The intent was to ameliorate the problems of vote wastage and sympatico parties being forced to amalgamate. These problems were inherent in the older 'first-past-the-post' system, where electors simply plumped for a single favourite party or candidate.

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[5] *Australian Constitution* sect. 41, as narrowly interpreted in *R vs. Pearson; ex parte Sipka* (1983) 152 Commonwealth Law Reports 254. This section was included in the *Constitution* to placate the fears of women in those colonies who had won the vote in the 1890s. The provision also incidentally protected the ballots of those Indigenous and non-white residents who possessed voting rights in certain colonies at the time of federation.

[6] Compulsion in the franchise now encompasses all levels of government with minor exceptions (eg senior citizens in Victorian local government elections).

[7] Voluntary turnout applies in Western Australian and Tasmanian local elections, to older voters in Victorian local elections, and in some local elections for non-residents with a property-based franchise

[8] Exceptionally, first-past-the-post is still used in some local government areas.

[9] Only the smaller jurisdictions of Tasmania and the Australian Capital Territory elect their lower house – and hence governments – through proportional representation. Both use the 'Hare-Clark' system of the 'single transferable vote'. This is a 'quota preferential' system, meaning results are quasi-proportional rather than exactly proportional. Similar systems are used for the upper or houses of review at national level (the Australian Senate) and in four States. Only Queensland and the Northern Territory, both unicameral systems, lack any form of proportional representation.

Further, the legal compulsion to enrol and to turn out to vote extends, in most elections in Australia, to a compulsion to express a complete set of preferences. This is known as 'compulsory preferential' voting. Under this system, to cast a valid vote an elector must rank all candidates on offer (or, in iterations involving proportional representation, to at least select a party list and thereby assign their ranking of candidates to as that party chooses). Those who prefer greater or more sincere electoral choice oppose this system. But, on a couple of occasions, the High Court has accepted that parliaments may prescribe it. The then Chief Justice, himself a former conservative Attorney-General, put it bluntly when declaring that an elector can be forced to rank all candidates since "he must have one or more of them as Parliamentary representatives".[10] This system generates majority winners in each race, albeit winners based as much on which is the least disliked of the parties, rather than which party is most positively liked. Exceptionally, elections in the state of New South Wales and the Northern Territory employ 'optional preferential' balloting, where electors may rank as many or few candidates as they wish. Australian Senate elections recently adopted a compromise version, where electors are advised to rank at least six parties, although it is sufficient to rank just one party to render the ballot valid.

3. Eligibility: Who has electoral rights under national law?[11]

3.1. Citizen residents

The parliamentary franchise is focused on citizen residents. As set out for national elections in the *Commonwealth Electoral Act*, any citizen who has 'a real place of living' at an address must enrol, and keep that enrolment updated if they adopt a new address. That said, as a matter of regulatory policy the Australian Electoral Commission does not seek to fine those who do not sort out their enrolment. This contrasts with so-called 'compulsory voting', another feature of Australian electoral law. The electoral authorities at national, regional and even local level do routinely enforce fines against enrolled electors who do not turn out to vote without a sufficient excuse.[12]

As mentioned in the introduction, the age threshold for voting and candidature is 18. This is the default rule for elections at all levels. In addition, a 16 or 17 year old can provisionally enrol, and thus be ready to vote if an election is held after their 18th birthday. It should be noted that whilst all Australian states and territories have fixed election dates, there is no routine 'election day'. In addition, national elections can be called at any time by the Prime Minister. This creates issues for electoral enrolment and roll management generally.

Mental disability is not a generic category for disenfranchisement. Rather, as a matter of law, a person who is of 'unsound mind' so as to be unable to understand the nature of

[10] *Faderson vs. Bridger* (1971) 126 Commonwealth Law Reports 271 at para 8. Similarly, see *Judd vs. McKeon* (1926) 38 Commonwealth Law Reports 38.

[11] For a fuller account of eligibility to vote, and the process of electoral enrolment (i.e. electoral registration), see Orr 2010: chs. 3 and 4.

[12] The fines vary in the $20 to $50 range, depending on whether they are paid early or not. A failure to pay a fine may lead to a conviction.

voting is not qualified to be enrolled to vote. Once enrolled a person cannot be unenrolled, on the basis of unsoundness of mind, without a medical certificate finding them to be unqualified. In practice, then, it is left to relatives or friends to produce a medical certificate, often as a result of an enrolled elector receiving a 'show cause' notice for not voting. Whilst not particularly bureaucratic or invasive, this system raises autonomy concerns for some younger adults suffering intermittent psychiatric problems, if they find that a relative has triggered their disenrollment.

Property franchise at local government level

In addition to a franchise centred on citizen residents, the local government franchise in five of the six states also offers voting rights based on property qualifications.[13] Whilst varying between jurisdiction, and in ways too complex to neatly summarise, such property qualifications embrace non-resident land-holders because they are rate-payers. These property qualifications trace back to the formation of local councils in the British common law system.

Excoriated as a 'relic' of a less democratic era (Sawer 2007), the property franchise was abolished altogether in the state of Queensland as long ago as 1921. In contrast, in Tasmania and Western Australia the property franchise even permits someone to vote more than once in the same council, if they own property in different wards.[14] (In the remaining states, no individual can vote more than once in a single council. But even in those states, someone may still be able to vote in more than one council: e.g. in their council of residence *and* by virtue of owning land in another council area). In the states of Victoria, South Australia and Tasmania, the property franchise may also be exercised by a corporation, and not just a natural person.

One rationale for maintaining a property franchise at local level relates to the 'taxation-representation' nexus. Councils in Australia lack the power and social role of local governments in many other jurisdictions. Aside from local land planning decisions, they focus on concrete amenities like sewers, garbage, local roads and parks.

On top of this property franchise, in two of the 'citadel' local government areas, namely Sydney and Melbourne, there is also a business franchise. That is, businesses operating out of property leased in these central business districts (CBDs) are also entitled to enrol. The ostensible reason for this is that these CBDs require representation of varied interests, as they exist to serve a wider community than just their residents. In Sydney, this business franchise was recently ramped up to give such businesses not one but two votes. This was designed to alter the balance of voting power from noticeably 'progressive' inner-city residents to more pro-development interests (Weissmann 2014).[15] Exceptionally, whilst the general property franchise is voluntary, businesses on the Sydney and Melbourne City Council rolls must vote.

3.2. Persons convicted of criminal offences

[13] Queensland, as noted in the following paragraph, is the exception. The Northern Territory also does not have a property qualification for its local government system. The Australian Capital Territory does not have a separate local government to its legislative assembly.
[14] A 'ward' is another term for a geographical constituency within a local government area.
[15] If so, the move failed to have much effect at least in the 2015 Sydney City Council and Mayoral elections.

The question of prisoner voting has been a vexed one. Indeed it has been used as a political football, in disproportion to the numbers of people affected (Orr 1998). That said, it is not merely a symbolic question relating to the 'social contract'. It disproportionately affects male, and Indigenous people due to their higher rates of incarceration. As a general principle in Australia, social democratic parties favour full prisoner enfranchisement and conservative parties favour limited or no enfranchisement. It should be stressed however that that even conservatives agree that disenfranchisement must end once a person's prison sentence is complete.[16]

In the early 2000s, the Australian parliament legislated to disenfranchise all prisoners from voting at national elections. This led to constitutional litigation, brought by an Indigenous prisoner, Vicky Roach (Redman, Brown and Mercurio 2009). In that ruling, as noted in the introduction to this report, the High Court for the first time recognised that a 'universal suffrage' was implied in the *Australian Constitution*. As a result, the Court reserved to itself the power to invalidate undue restrictions on the franchise. On the issue of prisoner voting, the Court decided that long term inmates could be disenfranchised, but not 'short term' prisoners. As a result, the blanket ban on prisoner voting at national elections proved short-lived. The pre-existing legislative compromise – where prisoners serving terms under three years can vote – was effectively reinstated.

Several state jurisdictions have retained different rules for prisoner voting. More conservatively, Western Australia disenfranchises those serving more than one year. More liberally, Victoria only disenfranchises those serving five years or more, whilst South Australia has no prisoner disenfranchisement at all.

In implying a 'universal franchise' the High Court did not set out its exact contours. Instead it appealed to an evolutionary, 'community standards' idea of constitutional values. Under this method, the Court will apply exacting scrutiny to legislation which *reduces* existing electoral rights, but is less likely to entertain claims to push electoral rights into new terrain. This 'ratchet' method of protecting established rights means electoral litigation forms a shield rather than a sword, and the Court is positioned as a bulwark rather than an activist judiciary (Orr 2011).

3.3. Citizens abroad

The Australian diaspora, as noted at the outset of this report, is essentially a voluntary one, with a large proportion of young and educated members. Whilst not a vulnerable group, this diaspora is increasingly vocal and connected, particularly in the internet age. Its chief lobby group has been The Southern Cross Group.

Residency in Australia – essentially defined as having a 'real place of living' in Australia – is a requirement to maintain long-term enrolment. (For this purpose Australia's offshore territories, notably the non-self-governing territories of Norfolk Island, Christmas Island, the Cocos (Keeling) Islands and the Australian Antarctic Territory, are parts of Australia).

Australian citizens who take up residence abroad may retain enrolment at their last Australian address or connection, for at least six years, provided they declare an intention to return. (Six years represents two national electoral cycles). After that they can maintain their

[16] Exceptionally, people convicted of treason face lifetime disenfranchisement. For the full definition of the national franchise see *Commonwealth Electoral Act 1918* (Australia) sect. 93.

enrolment on an annual basis, but only by renewing their declaration to return. Such 'eligible overseas electors' are not subject to compulsory enrolment or voting. But if their enrolment lapses or they do not lodge a ballot, they lose the privilege. Whilst this system is an attempt to balance the interests of the diaspora with the principle of real connection to the polity, it has been criticised as unnecessarily convoluted.[17]

Mode of representation and candidature

If enrolled, a citizen abroad has a legal right to stand for election at national and state or territory elections.[18] However, there is no special representation for the diaspora. As mentioned, Australian citizens abroad tend to be spread across various, typically 'first-world', cities. Unlike members of some diasporas, they are neither the vulnerable seeking refuge, nor a source of essential remittances back home. Reflecting this, expatriates are accommodated in an 'assimilated representation' model. They vote in the electorate and state/territory where they were last enrolled or, failing that, where a parent or spouse was last resident and hence enrolled.

In this 'assimilated' model, expatriates can, by law, stand as candidates where they are enrolled. (Local government is different. Given its nature, it rests on a model of ongoing connection to place). However there are very few examples of citizens abroad contesting elections in modern times. This is consistent with electoral systems that are based on local constituencies (lower house) or defined regions (upper house). Outside the New South Wales and South Australian upper houses, no Australian legislatures are elected 'at large'.

Julian Assange is an exception who proves this reality. His high profile WikiLeaks Party struggled to poll 1.5 per cent of the 2010 Senate election, even in the fairly progressive state of Victoria. In any event, there is no provision for a citizen abroad to be sworn in or to 'attend' parliament remotely. On the contrary, to retain a seat in parliament, a citizen abroad would have to return frequently to attend parliament, because constitutional rules unseat any MP who misses sessions of parliament without leave.

3.4 Foreign residents

As noted in the introduction, as Australia was part of the British Empire (now the Commonwealth of Nations) it did not legislate for the category of 'citizenship' until 1948. It relied instead on the notion of subjecthood of the Crown. It was not until 1984 that citizenship became a pre-requisite for electors enrolling for the first time (Rubinstein 2017: 15-17).

When this pre-requisite was introduced, a dispensation was allowed for those subjects of the Crown who were enrolled on 26 January 1984.[19] As long as those persons remain on the roll, they retain the right to vote without having to take out citizenship. There are some 49 countries within this category, notably the UK, Canada, New Zealand and India (Kelly 2013: 52). This dispensation has been denounced as discriminatory by a Labor Party chair of the national parliamentary electoral matters committee (JSCEM 2009: 337-353). However such arguments have not yielded any bill to undo the privilege.

[17] The policy reasons behind this are discussed in JSCEM 2009: 295-305.
[18] But note the prior residency requirement for all candidates in Tasmanian state elections (footnote 30 below).
[19] Symbolically, that was Australia Day 1984. The date varies slightly for elections in a couple of states.

As those people die, emigrate or otherwise drop off the roll, their numbers are dissipating. But as of 2008, they still numbered some 162 000, out of a then national enrolment of around 12 million. 13 of 150 national electorates derived at least 2, and up to 4, per cent of their enrolment from such non-citizens (JSCEM 2009: 347).

These resident non-citizens may not, however, stand for or serve in any parliament in Australia. This is due to provisions such as section 44(i) of the *Australian Constitution.* That provision bars even dual-citizens becoming or remaining an MP in the national parliament.[20]

As with calls to liberalise expatriate voting, there is some academic and social justice interest in extending the franchise to all permanent residents (e.g. Orr 2008). However this is yet to become part of any legislative proposal. This may seem odd given Australia is an immigrant nation: it certainly sits in contrast with the more liberal position in neighbouring New Zealand. One explanation is that immigrant nations have to balance their openness to new settlers with the conservative instincts of existing, assimilated communities. The High Court, for its part, has signalled that it would not entertain an argument that choice by 'the people' - the foundational principle of the national parliament -[21] necessarily includes non-citizens.[22]

3.5 Indigenous Australians

As noted at the outset of this report, race and voting were vexed issues in Australia for many decades. This was particularly the case in relation to Indigenous voting rights. The history and detail of this remains contested (compare Chesterman 2003, Windschuttle 2016 and Galligan 2016). The complexity of this history relates in part to federalism. In a few colonies, Indigenous people were explicitly enfranchised in the latter part of the 19th century, yet for Queensland and Western Australian elections they were not fully enfranchised until the late 1960s. In part it related to now outmoded administrative norms. 'Half castes', with more than 50 per cent non-indigenous heritage, were not treated as 'indigenous' for electoral purposes. And in part it rested on a lack of economic and social integration. Some Indigenous peoples maintained a high level of autonomy and traditional economies and lifestyles, whilst others were assimilated into and even swamped by white society.

The first national moves to positively enfranchise any ongoing category of Indigenous electors occurred in the aftermath of World War 2, and involved Indigenous service personnel. It was not until 1962 that Indigenous electors as a whole gained the national franchise. Even then, and unlike other Australians, they were not compelled to turn out to vote until 1984. Ongoing challenges remain in relation to the practical delivery of electoral services and education to Indigenous Australia (Sanders 2001, Kelly 2013: 67-71).

There are no 'reserved' seats for indigenous people or communities in any Australian parliament. Again, in this Australia contrasts with its neighbour New Zealand. Periodically the issue is discussed in parliamentary reports, or advocated for by some Indigenous elders and academics (e.g. Reilly 2001, Davis 2011). Indigenous representation only approaches critical mass in the sparsely populated Northern Territory, where an Indigenous man served

[20] The High Court has held that even the UK became 'foreign' to Australia, constitutionally and for electoral purposes, at some point in the 20th century and at least by the *Australia Acts* of 1988. See *Sue vs. Hill* (1999) 199 Commonwealth Law Reports 462.
[21] *Australian Constitution* sects. 7 and 24.
[22] *Roach vs. Electoral Commissioner* (2007) 233 Commonwealth Law Reports 162 at 174-175.

as Chief Minister from 2013-16. Since 2010, the national parliament has welcomed its first female Indigenous MP and first Indigenous minister within the national government. Some jurisdictions, in turn, have erected distinct local government structures for provincial and remote Indigenous communities.

As part of an ongoing debate about Indigenous constitutional 'recognition', a prominent Cape York elder, with the support of some constitutional conservatives, has proposed entrenching an Indigenous assembly in the *Australian Constitution* to enhance Indigenous voice (Pearson 2015). That assembly would only have advisory powers. The idea builds on a pre-existing Aboriginal and Torres Strait Islander Commission, which was formed under national legislation between 1990 and 2005. At the base of that Commission were regional councillors, elected by Indigenous peoples. This required a (well litigated) set of electoral rules and rolls. Out of this process, a definition emerged demarking indigeneity for contemporary administrative and electoral purposes. Today, for an individual to be an Indigenous Australian requires three elements: 1. some Indigenous heritage by lineage, 2. self-identification as an Indigenous person; and 3. recognition or acceptance as such by an Indigenous community.

4. Exercising electoral rights

4.1. Registration procedures

For the vast majority of people, the qualification to vote does not vary between national and state or territory parliamentary elections.[23] As a result, joint roll-keeping arrangements are in place between the various electoral authorities, for reasons of administrative efficiency and simplicity.[24] Electors can meet their obligation to enrol by filling in a single form, either electronic or paper based (the latter e.g. available in post offices).[25] Electors at risk of, for example, ex-partner violence may also apply for a 'silent enrolment', where their personal details are not listed in the publicly available roll.

Enrolment procedures in Australia have always evidenced a tension between a desire to maximise enrolments through administrative procedures, and leaving enrolment to the individual. We can call these the 'utilitarian' and the 'liberal' traditions. The utilitarian tradition was evident early on, in the use of police and postmen to canvass households to enrol electors in both colonial and early federation times (Sawer 2003: 57-58). Electoral administration was put on a professional and effectively independent basis at a national level early in the 20th century (Sawer 2003: 62, Hughes 2003). The electoral commissions pride themselves on the comprehensiveness and accuracy of the electoral roll. Compulsory enrolment was also introduced nationally in 1911, predating compulsory voting by several

[23] Prisoners, as earlier noted, are an exception proving the rule.

[24] The compilation of registers for local elections is a matter for State and Territory authorities, and in a few cases, for local government authorities themselves. This is because of the business and/or non-resident ratepayer franchise that pertains in many local government authorities.

[25] Online enrolment is relatively recent. The Australian Electoral Commission read its legal mandate as requiring it to collect handwritten signatures, until the case of *Get Up Ltd vs. Electoral Commissioner* [2010] FCA 869 was won by a progressive activist group.

years. A more liberal tradition is evident in the practice of electoral commissions not seeking court fines against those who do not voluntarily maintain enrolment.

The legal requirement to enrol, or update one's enrolment, is triggered after 21 days of becoming qualified to enrol or of moving address. This enrolment mandate, shared with neighbouring New Zealand, is designed to ensure the roll is continuously accurate and comprehensive. Continuous roll maintenance is important as there is no fixed election date for national elections; in addition the roll is used as the reservoir of juries for criminal trials.

Automatic or direct enrolment; and the close of the rolls

Despite the formal legal compulsion to maintain enrolment, and the administrative policy of continuous roll maintenance, since the 2000s electoral commissions and others have raised concerns about the comprehensiveness of the roll. Wavering enrolment levels reflect changes in patterns of political and social engagement seen worldwide. In response, there have been moves to implement automatic enrolment.

Automatic enrolment, of the 'motor-voter type' where someone is enrolled at the point of acquiring say a motor vehicle licence, is not employed in Australia. Instead, various electoral commissions have been empowered by statute to engage in 'direct enrolment'. At the national level, this involves the Australian Electoral Commission receiving data on electors and potential electors from other Commonwealth government agencies, such as the social security department. The Commission then writes to the individual, via email or even text message, inviting them to correct the information. In default of any reply, the Commission updates the roll accordingly. Otherwise the enrolment is updated in line with any correction made by the individual.

This system of direct updating of the jointly administered electoral roll by the national authorities followed on the heels of the 'SmartRoll' or 'automatic enrolment' project initiated in New South Wales in 2009 (ECNSW n.d.) and Victoria's direct enrolment scheme of 2010.[26] These state schemes take advantage of information held by state government agencies, such as utility accounts and motor vehicle records. Prior to 2012, the Australian Electoral Commission could use data from other Commonwealth agencies to amend the national roll, but only to *unenrol* an elector. Such one-way use of data was a contributor to a declining rate of enrolment. Direct enrolment has, since its inception, improved the comprehensiveness of the roll. Even so, at the 2016 election the Australian Electoral Commission estimated that around 5 per cent or 816 000 eligible citizens were still not enrolled (AEC 2016).

Direct enrolment has been opposed by some conservatives, who are more concerned about the potential for electoral fraud than expanding the roll. That kind of concern culminated in a voter-ID requirement in the state of Queensland. Although that ID requirement only lasted one term after encountering opposition from civil society groups, many conservatives wish to replicate it at national level (Orr and Arklay 2016).

Relatedly, the High Court ruled in 2010 that electors must be allowed a grace period, after an election is called, to put their enrolments in order. This occurred in the case of *Rowe vs. Electoral Commissioner*,[27] which was brought by a progressive activist group Get Up. In

[26] A formal issue arises with those states or territories which do not recognise direct enrolment procedures: technically their laws still require them to obtain a signed application or transfer from the elector concerned (JSCEM 2015: 78-79).

[27] *Rowe vs. Electoral Commissioner* (2010) 243 Commonwealth Law Reports 1.

it, the Court extended its reasoning in the prisoner voting case of *Roach*, regarding the need for the political branches to clearly justify any burdens on the constitutionally implied universal suffrage. There had been an earlier custom of leaving the rolls open for a week after the writs for an election were issued. Noting that liberal custom, and given the relative speed of processing data in the 21st century, the Court held that there was no justification for closing rolls precipitously, despite conservatives' fears about risks to roll integrity. The practical effect of the case is poignant for national elections, where the Prime Minister retains the ability to call a snap poll.

However in 2016, the Court rejected an argument that technological advances meant that enrolment as late as polling day must be permitted.[28] It reasoned that such a move was a policy one for parliaments and electoral commissions, requiring a balance of cost, integrity and practical questions, and not one for constitutional dictate. Nonetheless, three largest, eastern coast states now permit enrolment up to their state's polling day (Queensland) and even on polling day (New South Wales and Victoria).

4.2. Nomination procedure: becoming a candidate

Enrolment - or at least the qualification to be enrolled - is the primary prerequisite for candidature. Some jurisdictions merely require a candidate to be qualified to be enrolled to vote, and not to be actually enrolled. This is a dispensation to protect MPs or candidates who do not live in the electorate they wish to contest.[29] In relation to parliamentary elections, only the island state of Tasmania requires candidates to meet an extra, minimum residency requirement.[30]

Enrolment qualifications like being 18 and a citizen, however, are not the end of the story. At every level of government there are various 'dis'qualifications. That is, there are certain statuses that bar electors from standing, being elected or serving. These revolve around a cluster of concepts, mostly inherited from 19th century UK practice, relating to perceived conflicts of interest and duty. To paraphrase those that apply to the national parliament under sections 43-44 of the *Australian Constitution*, these are:

- Standing for or serving in both houses of parliament at once.
- Dual-citizenship of, or allegiance to, a foreign power.
- Being under sentence for any offence whose maximum penalty is one year or more imprisonment, or having been convicted of treason.
- Being an undischarged bankrupt.
- Having an 'office of profit' under the Crown, e.g. being a public servant, even one on leave without pay.
- Having a pecuniary interest, albeit indirect, in an agreement with the Commonwealth (except as a shareholder of a public company).

[28] *Murphy vs. Electoral Commissioner* [2016] High Court of Australia 36.

[29] This assists city MPs who prefer to live in another electorate. More justifiably, it permits parties to offer candidates, often university students, in areas where they might otherwise lack many local activists.

[30] *Constitution Act 1934* (Tasmania), sect. 14, requires either five years residency in a lifetime, or two years immediately prior to nominating.

Some of these categories are outdated. For example, bankruptcy is no longer a moral taint. Others are unduly broad. For instance, there are several million dual citizens in Australia. And some are simply fuzzy. In particular there is a lack of clarity over the outer extent of terms such as 'office of profit', 'the Crown' and 'indirect pecuniary interest'. Yet despite various recommendations to overhaul this area by various inquiries (e.g. Senate Standing Committee on Legal and Constitutional Affairs 1981), no referendum to achieve such reform has been put to the people. After the 2016 national poll, two minor party senators faced lengthy litigation asserting they were disqualified for election.

Whilst there was a similar inheritance of historical principles in the constitutions of the states and territories, their constitutional frameworks are not as rigid as the *Australian Constitution* is in relation to the national parliament. As a result, these regional jurisdictions have been able to enact more flexible and fair disqualification rules. The provisions are too various to describe here (for detail see Carney 2000: chs. 2-4). But in broad terms the mechanisms are:

- Substituting clear lists of sensitive offices deemed incompatible with candidature or parliamentary service – rather than using a fuzzy category like 'office of profit under the Crown'.
- Providing that a disqualification does not arise until after the election result is known – as opposed to expecting the candidate to identify and expunge the disqualifying status prior to nomination, which is a real impost, especially on minor party candidates.
- Providing that the legislative assembly itself may waive minor infractions by sitting MPs.

Even so, at regional level disqualification rules still raise difficulties on occasion, including as to the consequences of a disqualified candidate appearing on the ballot (Orr 2015a).

Along with the formal qualification to stand, candidates must also meet certain ballot access requirements. Besides obvious formalities such as timely nomination, there are two hurdles designed to achieve substantive goals. One relates to proof of minimum community support. In each jurisdiction, a candidate needs either to be nominated by a registered political party (which itself must have a minimum membership), or to be nominated as an independent by a minimum number of fellow electors. That number of nominators varies from 100 at national elections down to 10 in Tasmania and 6 in the Northern Territory.

The second hurdle relates to proof of bona fides, for which the proxy is a monetary deposit. Again the amount varies by jurisdiction. The deposit is refunded if the candidate or party secures a minimum share of the vote, typically four per cent. In response to concerns about the proliferation of micro party and independent candidates – and resultant complexity of the ballot – the procedures to register a party and the level of deposit required have been raised in various jurisdictions in the past decade (Orr 2015b). For a fuller account of candidature processes, see Orr 2010: 98-116.

4.3 Casting the vote

As a matter of law, and at all levels of government, election days in Australia have for a long time been set only on Saturdays. With the obvious exception of the observant Jewish community, the choice of a weekend was designed to maximise turnout, especially by

minimising clashes with long working days. The traditional voting option is by polling in-person, on election day, via a paper ballot. Despite a rise in early voting (see below) this remains the most common method of voting.

Such in-person, polling day voting comes in two guises. The most typical is the 'ordinary vote'. This involves balloting at any one of numerous polling stations in one's electoral constituency (a.k.a. 'division' or 'district'). Electors who find themselves outside their constituency can also visit a polling station in another constituency and vote by 'absentee' ballot. This involves making a written declaration. The ballot is then sealed and physically transferred, after polling day, to the constituency for verification and counting. Such absentee voting has until recently had to occur within one's state or territory. However at the last national election interstate polling facilities were provided in central locations in capital cities.

Postal and pre-poll ballots: the rise of 'convenience' voting

Perhaps unsurprisingly, given its geographic size, Australia helped pioneer the use of the postal ballot in the early part of the 20th century (Orr 2014: 151-152). The rules around accessing a postal ballot however have long been contested. In a reverse of their positions on liberalising enrolment processes, conservative parties tend to prefer easy access to postal voting whilst social democratic parties tend to worry about the secrecy and security of postal ballots. Unlike parts of the US, all mail elections are unheard of in Australia (except, in recent years, for local government elections in Tasmania).

Postal balloting at national and in most state elections is therefore not an unfettered right. In most jurisdictions one must be travelling, be a certain distance from one's home constituency or nearest polling station, or be infirm or incarcerated, to qualify for a postal ballot. Over time the list of valid reasons for postal voting has expanded. For national elections it now includes simply being outside one's electoral division or more than eight kilometres from a polling station on election day, as well as infirmity.[31] At the most liberal end of the scale is Queensland, following reforms made in 2014. For that state's elections there is no requirement to cite a reason to vote by post at a particular election.[32] Despite a decline in, and rising cost of, 'snail mail',[33] postal voting remains a common option, accounting for upwards of 10 per cent of votes cast.

Postal voters can be 'general postal voters'. These are electors who have an *indefinite* need to vote by mail, due to remote or overseas residence or permanent physical immobility. Or they can be 'special postal voters'. These tend to be people facing ad hoc travel or incapacity. Postal votes can be received at any time up until 10 days after polling day, although they are meant to be posted by the close of polling.[34] This long lag time allows for Australia's size, and those travelling overseas.

As in many countries, early voting has become a significant feature of contemporary Australian elections. Postal voting is one form of early voting. But in recent years the preponderant form of early voting has been 'in-person pre-polling'. This involves dedicated

[31] *Commonwealth Electoral Act* 1918 (Australia) Schedule 2.
[32] That is, anyone can apply ad hoc for a postal ballot. Those seeking to become permanently listed for an automatic postal vote must however do so for reason of remoteness.
[33] A pejorative for the post, coined in the internet era.
[34] 'Meant to' because election days are Saturdays but post boxes are not cleared on weekends until Sunday afternoon.

'early voting centres' at national, state/territory and even some local elections.[35] The eligibility to pre-poll mirrors the eligibility to vote by post. But there is evidence, at least from the 2015 Victorian election, of those turning up to vote early not being asked to supply a reason at all.[36]

Unlike in the US, early voting in Australia is largely a matter of convenience, rather than a means to help ease queues on polling day. Early voting is growing, election by election. At the 2010 national election, some 19 per cent of votes were cast early, whether by post or in-person pre-poll. By the 2016 national election that figure had risen to 27 per cent, the majority of them pre-poll, in-person votes. In a couple of state by-elections to fill casual vacancies, early voting has come close to accounting for half the total turnout. The ballooning of convenience voting, and its impact on both the civic ritual of election day and on the conduct of election campaigns, is a live issue (Orr 2014).

Remote regions are serviced by mobile polling booths on or prior to election day. At the 2016 national election, over 41 remote mobile polling teams offered services to over 400 remote locations. Similar facilities are also offered at many hospitals and large nursing homes.[37] Depending on resources and location, prisons also may be serviced by mobile polling booths, but more typically enrolled prisoners are reliant on postal voting. Unlike in the UK, however, voting by proxy has not been part of elections in Australia.

E-voting

In contrast to its history as an innovator in electoral techniques, Australia has been slow to consider e-voting as an alternative to paper balloting (see Taylor 2015). A trial of computerised (i.e. not internet) balloting, limited to low-vision electors and defence personnel, was conducted at the 2007 national election. It is yet to be repeated, partly due to cost. The last national parliamentary inquiry into the issue recommended that generalised e-voting not be pursued in the foreseeable future, due to concerns about cybersecurity and the secrecy of the ballot (JSCEM 2014: ch. 4). Instead only targeted uses of e-voting were endorsed. The inquiry emphasised extending the existing system of telephone assisted voting for blind and vision-impaired electors at national elections, to also cover those with mobility impairment. It also recommended pursuing e-voting rather than telephone voting for such persons, to enable them to enjoy a truly secret ballot.

Some sub-national jurisdictions have gone further on the e-voting front. Since 2001, the Australian Capital Territory (ACT) has provided computerised voting terminals in its polling stations, alongside paper ballots. This was done not just to assist electors with impairments but to assist all electors, given that the ACT has a complicated ballot paper based on a 'quota-proportional' voting system. Computer voting terminals are aimed at reducing costs and errors in the complex counting of such ballots. These machines were later extended to pre-polling centres. As of the 2012 election, some 25 per cent of those who polled in the ACT used such static, in-person computerised voting. Victoria, since 2006, has also provided in-person electronic options, but only at certain voting centres and only to assist electors with impairments or literacy problems.

[35] There were over 600 of these at the 2016 national election (including those located in embassies etc).
[36] *Rigoni vs. Victorian Electoral Commission* [2015] Victorian Supreme Court 97.
[37] Queensland also offers an 'electoral visitor voting' service, whereby someone with a serious illness, disability or advanced pregnancy, or a carer for such a person, can apply to have an electoral official make a house call to take their vote.

The state of New South Wales has pioneered internet voting in Australia, with its 'iVote' system. Employed since 2011, iVote permits a fully secret electronic ballot either online or via a telephone keypad. Initially limited to certain disabled electors and those more than 20 kms from a polling station, 'iVoting' was soon extended to anyone absent the state on polling day. Over time, it may come to supplant postal voting. Western Australia has also legislated to permit 'iVoting' for its 2017 election, but only for those with impairment or literacy issues. Queensland too has legislated for its electoral commission to provide, at its discretion, 'electronically assisted voting' to those affected by distance or impairment or literacy problems. But as of the most recent Queensland election of 2015, the only procedure available was casting a vote by telephone.

Non-residents

Electors overseas can vote by post. This includes 'eligible overseas electors' (i.e. citizens resident abroad) who may register as general postal voters, as well as travellers who may apply for a one-off postal ballot. Alternatively, depending on their location such electors may take advantage of in-person polling at 'overseas voting centres' within various Australian high commissions, embassies and some consulates. In recent years these centres have also offered pre-polling ahead of election day. Whilst commonly available for national elections, and to a lesser extent state elections, such facilities are not available for local government elections. If they happen to be in Australia during an election, non-resident electors may also vote in person.

5. Conclusion

Although Australia was known internationally as an incubator for democratic innovation (Sawer 2001), the question of the franchise has been a second-order issue for many decades. One exception to this has been technical innovation by some electoral authorities, who have been developing better electronic data-matching and options for direct enrolment, to enhance the accuracy and comprehensiveness of the electoral rolls. A second exception has been sporadic constitutional litigation about the franchise. Such cases have seen the High Court of Australia imply a constitutionally guaranteed universal franchise. That said, the Court has been cautious. It has used the principle as a shield to defend against backtracking on electoral rights, rather than as a sword to advance them into new territory.

Australia remains unique, at least amongst English speaking democracies, in mandating both electoral enrolment and voter turnout. As a result, and despite waning faith in electoral politics in recent decades, Australian national elections achieve close to 96 per cent turnout based on a roll of approximately 95 per cent comprehensiveness. Whilst Australia has not been at the vanguard of electronic voting, its tradition of independent and professional electoral administration, coupled with the treatment of electoral rights as citizen duties, has ensured a varied and pragmatic approach to electoral rights. This is most obvious in the numerous means to access the ballot. These range from in-person polling anywhere in one's home state or territory on election day, through quite generous entitlements to pre-poll or postal vote, and on to mobile polling facilities for remote or institutionalized electors.

Despite its history as an immigrant nation, since the adoption of citizenship as a pre-requisite for all new enrolments in 1984, Australia has not enfranchised those it now welcomes as permanent residents. This is in contrast with its island cousin New Zealand. Nor does it provide long-term ballot access to its citizens resident abroad, unlike countries such as the UK (a 15 year guarantee) or the US (a ballot for life). There are also significant and, at national level inflexible, rules about MP and candidate disqualifications, which affect millions of public employees and dual citizens. Whilst those rules could be softened by referendum, ironically that democratic mechanism to reform the rules of democracy has not been tried.[38] With the exception of sporadic litigation in the area, the creation and refinement of electoral rights in Australia thus remain largely the province of parliamentarians themselves.

[38] Indeed the last national constitutional referendum to consider electoral issues was in 1988 (a failed proposal to mandate one-vote, one-value). State constitutional referendums are occasionally held on issues such as fixed term parliaments and voting systems.

References

AEC (no date), *Enrol to vote: Living or going overseas*. Australian Electoral Commission. http://www.aec.gov.au/Enrolling_to_vote/overseas/index.htm.

AEC (2016), 2016 federal election: Key facts and figures. Australian Electoral Commission. http://www.aec.gov.au/Elections/Federal_Elections/2016/key-facts.htm.

Brent, P. (2006), 'The Australian ballot: Not the secret ballot', *Australian Journal of Political Science* 46: 39-50.

Brooks, A. (1993), 'A paragon of democratic virtues? The development of the Commonwealth franchise', *University of Tasmania Law Review*, 12: 208-230.

Carney, G. (2000), *Members of parliament: law and ethics*. Sydney: Prospect.

Chesterman, J. (2003), '"An unheard of piece of savagery": Indigenous Australians and the federal vote' in J. Chesterman and D. Philips, *Selective democracy: Race, gender and the Australian vote.* 21-31. Melbourne*:* circa.

Chesterman, J. and Philips, D. (2003), *Selective democracy: Race, gender and the Australian vote.* Melbourne*:* circa.

Davis, M. (2011), 'Justifying designated parliamentary seats: International law and indigenous peoples' right to self-determination' in J.-C. Tham, B. Costar and G. Orr (eds.), *Electoral democracy: Australian prospects*, 78-98. Melbourne: Melbourne University Press.

ECNSW (n.d.), 'SmartRoll'. Electoral Commission of New South Wales. http://www.elections.nsw.gov.au/enrol_to_vote/smartroll.

Gallligan, B. (2016), 'The fabrication of Aboriginal voting', *Inside Story*, 13 December 2016, http://insidestory.org.au/the-fabrication-of-aboriginal-voting.

Hughes, C. (2003), 'The independence of the commissions: The legislative framework and the bureaucratic reality' in G. Orr, B. Mercurio and G. Williams (eds.), *Realising democracy: electoral law in Australia*, 205-215. Sydney: The Federation Press.

JSCEM (Joint Standing Committee on Electoral Matters) (2009). *Report on the conduct of the 2007 federal election and matters related thereto*. Canberra: Parliament of the Commonwealth of Australia.

JSCEM (Joint Standing Committee on Electoral Matters) (2014). *Second interim report on the inquiry into the conduct of the 2013 federal election: An assessment of electronic voting options*. Canberra: Parliament of the Commonwealth of Australia.

JSCEM (Joint Standing Committee on Electoral Matters) (2015). *The 2013 federal election report on the conduct of the 2013 election and matters related thereto*. Canberra: Parliament of the Commonwealth of Australia.

Kelly, N. (2012), *Directions in Australian electoral reform: Professionalism and partisanship in electoral management*. Canberra: Australian National University E-Press.

Mercurio, B. and Williams, G. (2004), 'The Australian diaspora and the right to vote', *University of Western Australia Law Review*, 32: 1-29.

Oldfield, A. (1992), *Woman suffrage in Australia: A gift or a struggle?* Melbourne: Cambridge University Press.

Orr, G. (1998), 'Ballotless and behind bars: The denial of the franchise to prisoners', *Federal Law Review* 26: 55-82.

Orr, G. (2008), 'Citizenship, interests, community and expression: Expatriate voting rights in Australian elections' in S. Bronitt and K. Rubenstein (eds.), *Citizenship in a post-national world: Australia and Europe compared*, 24-37. Sydney: The Federation Press.

Orr, G. (2009), 'The voting rights ratchet: *Rowe v Electoral Commissioner*', *Public Law Review* 22: 83-89

Orr, G. (2010), *The law of politics: Elections, parties and money in Australia*. Sydney: The Federation Press.

Orr, G. (2014) 'Convenience voting: The end of election day?' *Alternative Law Journal* 39: 151-155.

Orr, G. (2015a) 'Does an Unqualified but Losing Candidacy Upset an Election?' *Election Law Journal* 14: 424-429.

Orr, G. (2015b), 'The law governing Australian political parties: Regulating the golems' in N. Miragliotta, A. Gauja and R. Smith (eds.), *Contemporary Australian political party organisations*, 212-224. Melbourne: Monash University Press.

Orr, G. and Arklay, T. (2016), 'Rethinking voter ID: Its rationale and impact', *Australian Journal of Political Science* 51: 386-399.

Pearson, N. (2015), 'Australian declaration of recognition launch speech', State Library of New South Wales, 13 April 2015.

Redman, R., Brown, D. and Mercurio, B. (2009), 'The politics and legality of prisoner disenfranchisement in Australian federal elections' in A. Ewald and B. Rottinghaus (eds.), *Criminal disenfranchisement in international perspective*, 167-204. Cambridge: Cambridge University Press.

Reilly, A. (2001), 'Dedicated seats in the federal parliament for Indigenous Australians: The theoretical case and its practical possibility', *Balayi: Culture, Law and Colonialism*, 2: 73-103.

Rubenstein, K. (2017), *Australian citizenship law*. 2nd ed. Sydney: Lawbook Co.

Sanders, W. (2001), 'Delivering democracy to Indigenous Australians: Aborigines, Torres Strait Islanders and electoral administration' in M. Sawer (ed.), *Elections: Full, free and fair*, 158-174. Sydney: The Federation Press.

Sawer, M. (2001) 'Pacemakers for the world?' in M. Sawer (ed.), *Elections: Full, free and fair*, 1-27. Sydney: The Federation Press.

Sawer, M. (2003). 'Enrolling the people: Electoral innovation in the new Australian Commonwealth', in G. Orr, B. Mercurio and G. Williams (eds.), *Realising democracy: electoral law in Australia*, 52-65. Sydney: The Federation Press.

Sawer, M (2007). ''Property voting in local government: A relic of a pre-democratic era?, *Representation*. 43: 45-52.

Senate Standing Committee on Constitutional and Legal Affairs (1981), *Report on the constitutional qualifications of members of parliament*. Canberra: Parliament of the Commonwealth of Australia.

Standing Committee on Education, Training and Young People (2007), *Inquiry into the eligible voting age*. Canberra: Australian Capital Territory Legislative Assembly.

Taylor, G. (2015) 'Electronic voting in Australia', in A.D. Maurer and J. Barrat (eds.), *E-voting case law: A comparative analysis*, 233-260. Farnham UK: Ashgate.

Twomey, A. 'Compulsory voting in a representative democracy: Choice, compulsion and the maximisation of participation in Australian elections', *Oxford University Commonwealth Law Journal*, 13: 283-312.

Weissmann, J. (2014) 'In Australia, businesses get to vote', *Slate*, 19 August 2014. http://www.slate.com/articles/business/moneybox/2014/08/australia_businesses_get_to_vote_sydney_conservatives_want_it_to_be_required.html.

Windschuttle, K. (2016), 'The break-up of Australia: Part II the academic assault on the Constitution', *Quadrant*, 60(12): 9-16.

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