



Submission to the Joint Standing Committee On Electoral Matters Inquiry into the 2007 Federal Election

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Introduction

This submission makes recommendations on political funding, use of parliamentary allowances, how federal elections are organised and conducted and how to make the electoral process more democratic.

I. POLITICAL FUNDING

Donation Ban

This corporatisation of electoral funding has undermined the public's faith in the democratic process. Many people believe that:

- large political donations are a form of bribery or corruption;
- those who give donations and attend expensive party fund-raisers are buying access to decision makers;
- politicians' decisions are influenced by large donations to their party;
- donors and politicians exploit loopholes and weaknesses in disclosure laws to hide money and avoid scrutiny;
- large donations can create a conflict of interest for politicians, and
- governments make decisions that favour donors to their party even when there is strong community opposition to the decision.

Therefore the Greens support a ban on political donations by corporations and other organisations but do not support a complete ban being extended to individuals who wish to donate to political parties.

For individuals it is appropriate that a cap be placed on the value of donations so that wealth is less likely to buy political influence.

Recommendation 1:

- Ban all forms of donations to political parties except those donations received from individuals or bequests.
- Place a moderate cap on donations from individuals who have been a full voting member of that party for at least 12 months.
- Place a stricter cap on donations from individuals who are not members of that party.

Election Expenditure

An effective way to bring fairness to the system of electoral funding and to reduce the corrupting influence of large donations is to put controls on the demand side. This can be achieved by introducing caps on election expenditure. In New Zealand the cap on expenditure for individual candidates is \$20,000 and \$1 million for political parties. This means that a political party in New Zealand can spend up to \$2.38 million on its 'election expenses' - \$1 million plus \$20,000 for each of the 69 electorates contested by the party. In Canada the cap on expenditure is calculated based on the number of voters in each electorate. Third party expenditure is also limited to C\$183,300.

Recommendation 2:

- A cap on election expenditure be introduced along the lines of the model in place

in Canada and New Zealand, involving a nationwide cap for party campaigning and a cap on campaign expenditure in each electorate, with those amounts being cumulative.

Public Funding

Public funding reform needs to be part of any policy change on political donations.

In Canada political parties rely on donations from individuals and public funding to run elections and for party administration. Canadian political parties receive approximately three times the public funding of political parties in Australia, paid in quarterly instalments, giving a steady public income. Spread over a four-year parliamentary term this adds up to \$6.80 per vote.

Canada's new laws have reduced public cynicism towards politicians. Whilst some public wariness of politicians' motives still persists, accusations of buying political influence have dropped away, as donations are not large enough to significantly corrupt the political process. In the absence of large corporate donors, Canada's new laws encourage parties to seek more individual donors, thereby increasing grass roots political involvement.

In New Zealand public funding consists largely of funded broadcasts. The Electoral Commission negotiates with broadcasters about how much free and discounted airtime they will give to parties. Since 1990 the Electoral Commission has purchased broadcasting time for candidates to screen election advertisements. New Zealand's public radio and television stations also allocate time for candidate's campaign opening and closing speeches.

The Greens support the provision of publicly funded election advertisement timeslots on free to air television and commercial radio and the ABC.

Recommendation 3:

- Adopt Canadian style funding laws that cover election costs including broadcasting and party administration.
- Provision needs to be made to ensure emerging parties and independent candidates are able to receive funding from individuals donations and/or public funding so they can contest elections.

Third party expenditure

The term "third parties" refers to individuals or organisations that engage financially in an election campaign but are not candidates, political parties or their associated entities. Third parties may be special interest groups, lobby groups or individuals, corporate or institutional supporters of a political party or candidate. The involvement of third parties in collecting money and campaigning in elections requires tighter controls.

Third parties are currently required by the AEC to disclose details of the donations made to political parties or candidates, donations they receive for election related expenditure and their expenditure over an election period on election advertising, campaign material, mail-outs, polling and research.

Election expenditure caps on third parties during an election campaign would enhance our democracy and remove loopholes that would enable political parties to by-pass any expenditure caps placed on their operations.

In Canada election expenditure by third parties is capped. The new law that came in

in 2000 is working well and has survived at least one legal challenge in the Supreme Court of Canada.

In the section below on the **Conduct of Elections** it is recommended that fixed parliamentary terms be introduced. One of many advantages of fixed terms is that it is easier to manage third party expenditure.

Recommendation 4:

- A threshold should be set on third party advertising expenditure in a designated election period. Third parties that engage in election advertising that exceed the expenditure threshold should be obliged to register with the AEC.
- Third parties' election advertising expenditure should be subject to financial limits in the lead up to an election that involves a cap on nationwide advertising expenditure and a cap on advertising expenditure in electorates.

II. USE OF PARLIAMENTARY ALLOWANCES

Printing allowance

The changes to legislation increasing the amount of the printing allowance and allowing it to be carried forward into a following year, combined with no limitation on its use for electoral campaigning have greatly increased the advantages enjoyed by incumbent MPs and thus to the government of the day as it has more MPs.

While it is reasonable for an MP to report to her electorate on a regular basis, and this will inevitably be designed to reflect well on the performance of that MP, there is a substantial difference between this kind of reporting and the blatant campaigning that was undertaken by MPs at the 2007 election using these public funds. To use parliamentary allowances in this way in NSW is an offence and has led to the dismissal of MPs from office.

Recommendation 5:

- Parliamentary printing and similar allowances should be reduced and not be able to be rolled forward if not expended in the year for which they are allocated.
- The expenditure of parliamentary allowances for campaign purposes should be prevented in way similar to their regulation for members of the NSW Parliament.

III. CONDUCT OF ELECTION

Fixed Term Elections

It is highly undemocratic for a Prime Minister to be able to determine the date of an election. As a candidate and member of a political party it is unlikely that the Prime Minister or Government of the day will be impartial when determining an election date. Politicians are almost certain to choose a date that will enhance the chances of retaining government. This will depend on political issues that are attracting media attention. This power provides an unfair election advantage to the Government.

Recommendation 6:

- Fixed terms be adopted for the federal parliament.

Televised Leaders Debate To Include Other Parties

Media coverage has a huge bearing on an election result and there is a mainstream

media bias in favour of the Coalition and ALP.

The nationally televised leaders election debate is perhaps the most glaring example of this media bias in operation. The leader of the Coalition and the ALP participate in the debate and the leaders of all other political parties are excluded. It is blatant discrimination and highly undemocratic.

A fair televised election debate would include the leaders of all parties, or a coalition of parties, which were contesting more than half of the 150 House of Representatives seats. To contest that many seats is a substantial undertaking. This figure has been suggested because if a party won 76 or more seats it was contesting, it would be in government.

Recommendation 7:

- The national broadcaster be required to screen a national leaders election debate that included leaders of other parties.

Postal Vote Applications

Currently many parties and candidates encourage voters to send applications for a postal vote to the candidate's campaign address.

While it is appropriate that parties encourage voters to legitimately apply for a postal vote, the completed application forms should only be returned to the local returning officer. It should be illegal for parties and candidates to encourage voters to send a completed application to anyone other than the local Returning Officer. The current system causes delay for the voter and an extra administrative burden for the AEC when parties arrive with large bundles of accumulated applications close to the deadline for receipt of postal vote applications.

Further, the current system is open to rorting, especially when information distributed to voters encouraging a postal vote is designed to appear as if it is official AEC material.

Recommendation 8:

- Amend the Commonwealth Electoral Act so it is illegal for parties and candidates to advertise any address other than the local Returning Officer for the return of postal vote applications.

Strengthen Legislation To Stop False Statements

Some media outlets and candidate's campaigns spread false or misleading information about other parties or candidates in order to damage their credibility and hence their vote. This is done in print, on radio, television, websites and in leaflets. The existing provision to discourage this is largely ineffectual and is far too weak.

The now infamous leaflet distributed by people associated with a particular candidate in the division of Lindsay in the 2007 federal election is a good example of this. Those behind the production of the leaflet have only been able to be charged with failing to have a proper authorisation on the leaflet. Astonishingly there is no electoral offence relating to the maliciously deceptive content of the leaflet.

Sometimes there is little that the victim of such slurs can do in the time scale of an election period, particularly if the false information is published in the last few days of an election campaign.

Section 329 of the Commonwealth Electoral Act, which deals with publishing false

information, is far too narrow. It is confined to misleading or deceiving a voter “in relation to the casting of a vote”. We understand that this has been interpreted by the courts as being confined to misleading information influencing a voter in the act of numbering a ballot paper. The narrowness of the provision fails to prohibit simple and deliberate false statements designed to damage a political opponent during an election campaign. Such a limited interpretation deters only a small percentage of people who publish false or misleading information during an election campaign.

Recommendation 9:

- Legislative provisions, similar to those in the deceptive conduct sections of the Trade Practices Act, which prohibit knowingly false or misleading statements being published about a party or candidate are needed to enhance democracy, regardless of whether those statements are made by an individual or a media outlet.
- The penalties for breach of this provision should be strong especially during an election campaign. Matters would need to be referred to an independent election tribunal that could: adjudicate on the truth of a statement quickly if election day was imminent; have the power to make public announcements before the election about the inaccuracy of published statements; and impose an appropriate penalty.

Public Servants Forced to Resign to Contest Election

Section 144 of the Constitution compels a public servant who wants to nominate for a federal election to resign from their employment. This is discriminatory and is an interference with a democratic right of a citizen to contest an election. Most public servants cannot afford to resign for a three to four week period or more, and many have been forced to abandon contesting a federal election.

It is not just public sector employees who are affected. In the case of teachers, for example, when they are forced to resign their students' education is disrupted.

Most candidates are not elected to parliament and many would choose to continue their employment throughout an election campaign if they were permitted to do that.

The Greens believe that provisions restricting the candidature of those employed in the public sector are anachronistic. The operation and scale of the public sector has changed dramatically since the time in which these kinds of provisions may have been warranted.

For example, the contract for employment of a public servant should prohibit any misuse of government resources by a candidate or use of confidential information received during the course of employment. In any case, if a public servant is determined to misuse confidential information, resigning from their employment will not prevent them from doing so. Sitting members of parliament should also observe these kinds of restrictions on the use of public resources for campaigning.

Recommendation 10:

- The federal government should legislate for a referendum to amend Section 144 of the constitution so that public servants are not forced to resign in order to contest a federal election.

Provisional Votes Unfairly Excluded

At elections when the names of voters cannot be found on the electoral roll, but the voter maintains that they should be on the roll, the vote they cast is called a

“provisional” vote. It seems that the large majority of provisional votes are rejected by the Returning Officer and not included in the count. Evidence for this was available during the counting of the 2007 federal election when the AEC website showed that around only 10% of provisional votes cast were actually admitted and counted.

These figures are no longer available on the AEC website but would be accessible by inquiry. In most federal divisions something like 1,000 provisional votes per federal electorate (about 1% of the vote) were not accepted while only about 100 were.

The Greens view is that most provisional voters are probably voters who have been on the electoral roll then moved to a new home, failed to change their electoral roll address, and then unknown to them have been removed by the Australian Electoral Commission from the roll. Correspondence from the AEC may not have been forwarded to their new address. Their vote is then rejected because they are not on the electoral roll anywhere.

This generally discriminates against people who have moved house, including renters, many of whom have to relocate regularly. Tens of thousands of otherwise eligible citizens have their votes rejected for essentially bureaucratic reasons.

Recommendation 11:

- If a person has been on the roll and can produce on election day evidence of their current residential address, such as a driver’s licence, or other suitable identification detailing an address to the satisfaction of the electoral official at a polling booth, then their vote should be accepted and be included in the count.

Improving Accuracy of the Electoral Roll

Part of the solution to the issue involving provisional voters would be to implement strategies to prevent the problem and maintain the enrolment for as many of these people as possible.

There are many residential properties where no one is enrolled. The AEC could maintain a database of houses and units without enrolments. These addresses could then be door-knocked by the AEC or relevant State Electoral Commission to assist any new residents to enrol. Alternatively, enrolment forms could be posted to those addresses. While some would be holiday homes with no-one eligible to enrol, a number of eligible people will be assisted to get on the roll.

Another measure to improve the accuracy of the electoral roll would be to ensure that the old addresses of people changing addresses were supplied with enrolment forms, either by mail or personal visit. Residences that have been vacated by a voter are likely to soon be filled by other voters who may not take the time to complete change of address forms.

The Greens also support the concept of automatic enrolment and updating of the rolls by the AEC using approved databases such as those maintained by State Motor Registries and Centrelink. The AEC would probably need additional powers in order to carry out this task.

Alternatively the AEC could write to all people who change their address with particular government instrumentalities and public utilities, and enclose an enrolment form. This would be useful but not as effective as automatic enrolment.

Finally, the provision of devices to polling officials to allow for search and validation of enrolment details would both maximise the opportunity for casting a valid vote as well as allow for details to be updated at the most effective time.

Recommendation 12:

- The AEC supply old addresses of people changing their address with enrolment forms to improve accuracy of the electoral roll.
- Automatic enrolment and updating of rolls using approved databases such as those maintained by Motor Registries and Centrelink be adopted.
- The AEC should adopt and expand the use of online roll checking devices in polling places as used at the 2007 NSW state election.

Abolish Senate Group Voting Tickets

While parties control the flow of preferences in Senate elections through group voting tickets, occasionally a candidate will be elected with a tiny percentage of the primary vote.

Candidates who poll so poorly would not be elected if Senate elections were further democratised by abolishing parties' group voting tickets and the control of preference flows were returned to the voter. This could be achieved by an above the line compulsory preferential system, whilst retaining the option for voters to vote below the line. This change would remove the incentive for candidates and parties to create front or fake parties in order to channel preferences to their primary party. Voters would determine the preference flow either above or below the line.

The result of this reform would be that the Senators elected would more accurately reflect the proportion of vote obtained.

Recommendation 13:

- Amend the Commonwealth Electoral Act to abolish group-voting tickets and establish above the line compulsory preferential voting in the Senate.

Limits On Electoral Adverts On Polling Booth Fences

While the display of election materials at polling booths can be informative for voters it is unfair when one party or candidate dominates the public space where such materials can be displayed.

As there is no size limit on banners or placards, some parties or candidates attach great long rolls of plastic advertising right along the length of the school fences, which means other candidates have limited options where they can display their materials.

The stage has been reached where some candidates in marginal seats are fixing signage on school fences the evening before polling day and hiring security to guard placards. A prohibition on placement of election signs on school fences prior to election day would solve this problem.

Recommendation 14:

- Amend the Commonwealth Electoral Act to limit the size of advertising materials that can be displayed at polling booths and prohibit the placing of electoral advertising material at polling booths prior to 6 am on election day.

IV. ELECTION SYSTEM

House of Representatives Elections Undemocratic

A major undemocratic and unethical aspect of the 2007 Federal election was the use of a single member electorate system for the H of R elections.

The 2007 election result saw the Labor party win considerably more seats than their vote justified. This was a turnaround of the 2004 result for the Coalition parties, particularly the Liberal party, who won 50% of the seats with only 40% of the vote.

In 2007 Labor polled 43.3% of the primary vote and won 55% of the seats or 83 out of 150 seats. If the election system were fair it should have resulted in Labor winning 64 or 65 H of R seats. That is a massive difference of 18 seats - seats that Labor did not deserve to win. This was at the expense of the minor parties.

The Coalition polled 42.2% of the primary vote and won 43.3% of the seats or 65 out of 150 seats. The Liberal party won 36.7 % of the vote and won 36.7% of the seats or 55 seats. The National party won 5.5% of the vote and won 6.6% of the seats or 10 seats.

Conversely the Greens polled over 7.8% of the vote nationally, which was a higher vote than the 5.5% polled by the National party, but won none of the 150 seats. The Greens polled over 1 million H of R votes (approx. 1,008,603) and won no seats.

Elections would be much more democratic if a proportional representation electoral system was created for the HoR. Single member electorates should be abolished and a Hare-Clark system based on multi-member electoral districts introduced.

The number of seats won by each party would more accurately reflect the vote obtained by respective political parties, whilst maintaining a reasonable degree of local representation and community access to local politicians.

The Greens acknowledge that our party would be more likely to have an increased number of candidates elected under the proposed system. However any increase would reflect the proportion of the vote our party obtained. It is obvious that a proportional representative system is much fairer and more democratic.

The largest parties have a vested interest in maintaining the current H of R electoral system. If the thrust of this proposal is not supported by the Joint Standing Committee, then detailed and cogent reasons as to why the current system is a more democratic system than that proposed should be provided by the Committee.

Federally there are about 30 registered parties and the Greens would confidently assert that most of them, apart from Labor and the Coalition parties, would regard the current H of R electoral system as unacceptably undemocratic.

In contrast, the Senate election result based on proportional representation was much more democratic. The number of seats won by parties more accurately reflected the proportion of vote obtained by each party.

Recommendation 15:

- This inquiry investigate currently operating electoral systems based on a Hare-Clark multi-member electoral districts systems and include in its final recommendations that a proportional representation system be adopted in Australia to enhance democracy.

RECOMMENDATIONS

I. POLITICAL FUNDING

1. Donation Ban

- Ban all forms of donations to political parties except those donations received from individuals or bequests.
- Place a moderate cap on donations from individuals who have been a full voting member of that party for at least 12 months.
- Place a stricter cap on donations from individuals who are not members of that party.

2. Election Expenditure

- A cap on election expenditure be introduced along the lines of the model in place in Canada and New Zealand, involving a nationwide cap for party campaigning and a cap on campaign expenditure in each electorate, with those amounts being cumulative.

3. Public Funding

- Adopt Canadian style funding laws that cover election costs including broadcasting and party administration.
- Provision needs to be made to ensure emerging parties and independent candidates are able to receive funding from individuals donations and/or public funding so they can contest elections.

4. Third party expenditure

- A threshold should be set on third party expenditure in a designated election period. Third parties that engage in election activities that exceed the expenditure threshold should be obliged to register with the AEC.
- Third parties activities should be subject to financial limits in the lead up to an election that involves a cap on nationwide expenditure and a cap on expenditure in electorates.

II. USE OF PARLIAMENTARY ALLOWANCES

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- The expenditure of parliamentary allowances for campaign purposes should be prevented in way similar to their regulation for members of the NSW Parliament.

III. CONDUCT OF ELECTION

6. Fixed Term Elections

- Fixed terms be adopted for the federal parliament.

7. Televised Leaders Debate To Include Other Parties

- The national broadcaster be required to screen a national leaders election debate that included leaders of other parties.

8. Postal Vote Applications

- Amend the Commonwealth Electoral Act so it is illegal for parties and candidates to advertise any address other than the local Returning Officer for the return of postal vote applications.

9. Strengthen Legislation To Stop False Statements

- Legislative provisions, similar to those in the deceptive conduct sections of the Trade Practices Act, which prohibit knowingly false or misleading statements being published about a party or candidate are needed to enhance democracy, regardless of whether those statements are made by an individual or a media outlet.
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- The AEC should adopt and expand the use of online roll checking devices in polling places as used at the 2007 NSW state election.

13. Abolish Senate Group Voting Tickets

- Amend the Commonwealth Electoral Act to abolish group-voting tickets and establish above the line compulsory preferential voting in the Senate.

14. Limits On Electoral Adverts On Polling Booth Fences

- Amend the Commonwealth Electoral Act to limit the size of advertising materials that can be displayed at polling booths and prohibit the placing of electoral advertising material at polling booths prior to 6 am on election day.

IV. ELECTION SYSTEM

15. House of Representatives Elections Undemocratic

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