

Australian Labor Party (National Secretariat)
Submission to the Joint Standing Committee of Electoral Matters
Inquiry into the Funding of Political Parties and Election campaigns
June 2011

1. Introduction

1.1 The Australian Labor Party (ALP) welcomes the opportunity to participate in the Joint Standing Committee on Electoral Matters (JSCEM) inquiry into the financing and funding of political parties and election campaigns.

1.2 This is a timely review following the publication of two extensive Green Papers on aspects of political party financing and on the regulation and conduct of elections across Australia.

1.3 This submission does not propose to discuss the many hundreds of issues raised in either of the two Green Papers released by the Australian Government and will limit commentary to those areas of direct relevance or concern to the ALP.

1.4 Through this submission the ALP hopes to provide JSCEM with further information on its views in relation to the financing of election campaigns, the role of Third Party campaigns, donations and expenditure regulation and the role of the Australian Electoral Commission (AEC) in enforcing the system.

1.5 We hope the inquiry finds the following comments useful in developing its report into these matters.

2. Transparency and accountability as a key policy objective

2.1 The ALP implemented the most significant overhaul of Australia's system of electoral regulation since the creation of the *Commonwealth Election Act 1918 (CEA 1918)* in 1983 and 1984.

2.2 These changes created an independent electoral authority, in the form of the AEC, and also created the new system of electoral regulation which included new features like public funding for electoral expenditure. Labor in government argued that public funding and public disclosure of donations were two linked issues. The increase in public funding demanded an increased level of scrutiny of all political funds raised by political parties and that disclosure should be a public act, with voters able to see who donated to which political parties.

2.3 Labor has always had a strong commitment to disclosure and accountability under electoral law. This has often been in contrast to the conservative parties which have promoted weaker regulation and less scrutiny of donations flowing into the political system. In 1980, the Coalition government liberalised the *CEA 1918* to remove expenditure caps. In 1984, they opposed public financing to political parties to remove the influence of big money in Australian politics, and also opposed the disclosure regime that worked alongside it. In 2006 they introduced draconian changes to the *CEA 1918* that increased the disclosure limit from the \$1,500 mark to over \$10,000, indexed to CPI.

2.4 Labor continues to believe that the starting point for an effective system of electoral regulation is disclosure of all source donations to political parties. Labor believes that it is now time to amend Australia's disclosure regime to ensure that it continues to meet community expectations that our political system is free from undue influence.

2.5 The ALP proposes the following immediate changes to the current disclosure regime:

- Lowering the disclosure threshold to its pre-2006 levels of around \$1,500.
- Fully disclosing all source donations to political parties, especially from associated entity fundraising trusts or corporations.
- Banning all foreign donations and ensuring that the disclosure laws are effective in preventing 'backdoor' foreign donations.

2.6 Further reforms to the disclosure regime should follow consideration of any move towards an expenditure cap, regulation of donations or public funding changes.

3. Limiting campaign expenditure by political parties

3.1 Australians value a tough electoral contest between parties, leaders and candidates at local level. In recent years, however, the size of political campaigns have grown at an alarming rate, with some in the community concerned that election spending has risen to unsustainable levels. An 'arms race' has emerged between political parties, with media buying reaching saturation point during the election campaign period. This has placed increased pressure on political parties to seek out further donations, with a concomitant impact on public credibility for political parties.

3.2 The ALP believes that it is now time for Australia to introduce effective expenditure caps on campaign spending which will limit the amount that parties at national level, and candidates at local level, can spend on electioneering.

3.3 Expenditure caps are an existing feature in most democratic systems in the developed world, with countries like the United States and Canada all having capped campaign expenditure.

3.4 The ALP proposes the following as a basis for an effective expenditure cap:

- Spending caps should apply for a set period, calculated from the last possible date for a federal election. This will give certainty to any expenditure cap given that there are not fixed terms for the Commonwealth.
- Any cap should be set at a level that provides equality between the two major grouping in Australian politics, the Australian Labor Party and the Liberal-National Coalition.
- A national expenditure cap should be set at a level that ensures no Third Party can distort the legitimate political campaign of candidates or political parties.
- Separate expenditure caps for local electorate level spending as well as national spending should be set.

4. Regulating activity by Third Parties

4.1 The ALP supports third parties promoting their views in the political system as a key feature of a vibrant democracy. The ALP believes that registered political parties and candidates who are contesting elections are the primary participants in electoral contests, as they are the ones seeking a mandate from voters. As a consequence, Third Parties must necessarily take a secondary place in a regulated political environment.

4.2 The ALP believes that the regulation of third party expenditure is a necessary consequence of regulating political party expenditure. This must be done to ensure that US-style "PACS" do not arise in Australia. If caps are placed on the expenditure of political parties then so-called "soft money" should not be permitted to be spent through a variety of front organisations or campaign groups.

4.3 In the last election, campaigns were conducted by interests representing the mining industry, tobacco industry, childcare industry and retailers. The combined expenditure of these campaigns was significant when compared to that of registered political parties. The ALP believes there is a strong public interest in restricting Third Party expenditure as part of any broader reform of financing and expenditure regulation.

4.4 The ALP proposes the following principles for the regulation of Third Party political activity:

- Participation by Third Parties in public election campaigning should be conditional upon registration with the AEC. The ALP believes there should be a high threshold for the registration of a Third Party under the *CEA 1918*, which should include provisions similar to that required for the registration of political parties.

- Third Parties should be required to demonstrate that they are a *bona fide* community of interest prior to registration. Bona fide employer and employee organisations under industrial laws should be granted automatic registration.
- An expenditure cap at a significantly lower level to that applied to political parties should be applied to all registered Third Parties.
- Cooperation between Third Parties should be regulated, so that expenditure caps are not circumvented.
- Communication between Third Parties and their members should be explicitly exempted from regulation.

5. Public funding for electoral activity

5.1 The system of public funding introduced by Labor in the 1980s helped to make Australia one of the world's leading electoral reform jurisdictions. Public funding is a critical part of that system, ensuring that political parties are not beholden to sectional or vested interests.

5.2 This system should be improved to ensure that new pressures in the Australian political system do not distort electoral outcomes and weaken the franchise.

5.3 Based on a per vote formula, public funding provides a representative way to ensure that candidates and political parties are able to communicate their policies and platforms to the Australian public.

5.4 The ALP believes that public funding for election campaigns serves a public interest in ensuring a level playing field and protecting the integrity of the franchise from external influence.

6. The role of the Australian Electoral Commission (AEC)

6.1 The second Green Paper Strengthening Australia's Democracy canvassed the currently regulatory and administrative arrangements around the AEC. The ALP is a strong supporter of an independent AEC and believes that the reforms of 1984 have provided excellent, independent regulation and conduct of Australia's federal electoral processes.

6.2 The Green Paper highlights a number of technical issues with the current provisions of the *CEA 1918* which could be clarified with small amendment to the Act. The ALP is generally supportive of these small measures.

6.3 The Green Paper also canvassed whether some functions of the current AEC should be split from the organisation into a separate entity. As has previously been publicly stated, the ALP believes that there may be merit in this. The ALP does, however, believe that the clearest case for a separate entity exists around

what may become the new and more detailed areas of campaign finance and expenditure.

6.4 With an increased focus on election spending caps, along with greater transparency and accountability for expenditure to become a feature of any amendment to the *CEA 1918*, the ALP believes that a standalone agency to deal with enforcement of these sections of the Act may be appropriate.

7. Conclusion

7.1 Australian democracy faces a reform challenge. Any change must seek to set Australian democracy on course for another 25 years of effective regulation and protection of the franchise, as occurred with the reforms of 1984.

7.2 With even minor reforms stymied by the conservative controlled Senate in the last parliament, bipartisan support for amendments to the *CEA 1918* should be sought as a priority for JSCEM.

7.3 It must also respect the unique circumstances and history of Australian democracy, including our strong traditions of political party identification and the historical roots of our political movements.

7.4 Any reform should also note the examples of electoral reform already delivered in New South Wales and Queensland.

7.5 Should JSCEM require further information in relation to this submission, please contact the ALP National Secretariat.