



Child Protection Party

Submission on the:

**ELECTORAL LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL
2020**

Joint Standing Committee on Electoral Matters



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1 Introduction

The Child Protection Party, hereafter the CPP, was founded in South Australia in January 2015. It was established to correct what we believe are systems that are unfair to all participants, that do not achieve the best possible outcomes for children and their families and that lack transparency, equity and fairness.

Minor parties are an essential part of Australian democracy because they give voice to the people over issues the major parties appear to pay lip service.

It is the CPP's position that some aspects of electoral law are disadvantageous to the minor parties and that these aspects must be addressed in order to make the electoral process fairer to the minor parties and their supporters.

The Bill currently under consideration addresses some, but not all of the issues that concern us. This submission will address the issues in the Bill where we believe changes must be made. It will also address some issues not addressed in the Bill.

2 Electoral Matters in the Bill

2.1 Sections 286A & 292G

2.1.1 *Commentary*

Minor parties are an essential part of Australian democracy because they give voice to the people over issues the major parties appear to pay lip service. Their members work hard to promote their parties and policy positions. With respect to funding, they find it very difficult to compete with the major parties. The CPP, believes that the requirement to achieve the 4% minimum of first preference votes is one factor that disadvantages the minor parties.

2.1.2 *Recommendation*

The CPP believes that this mandatory minimum should be reduced to read "at least 2% of the formal first preference votes".

2.2 Sections 298C & 302CA

2.2.1 *Commentary*

Some minor parties are established solely as federal parties while others are established as both state/territory and federal parties. The CPP is established at state and federal level.

It is the CPP understanding that gifts received by a party must be designated for use by the donor for use at state or federal level but not for both.

The CPP believes that this another aspect of the legislation that puts minor parties at a disadvantage to the major parties. Major parties receive substantial gifts from donors with apparent ease but minor parties, no matter how worthy the cause, can find it difficult to attract donations of any size.

The CPP, being registered as a federal and also as a state party, must maintain 2 separate bank accounts with all the costs that come with that. Transfers between the separate accounts are not permitted.

2.2.2 *Recommendation*

The CPP believes that the legislation be amended to allow the use of a single account for both state and federal purposes with the obvious proviso that records must be properly maintained that show how the money is being used.

Alternatively, the legislation could be changed to allow the transfer of monies between state and federal accounts again with the obvious proviso stated above.

2.3 Sections 200DE, 206,20 & 205 Section 73CE

2.3.1 *Commentary*

The use of a pencil introduces a risk, small though it may be, of electoral fraud taking place whereby a voter's selections are erased and changed.

2.3.2 *Recommendation*

The CPP believes that this section must be amended to read "*Each compartment must have an implement or method (excluding pencils) for voters to mark their ballot papers.*".

2.4 Subsections 200DI(1) & 229(1)

2.4.1 *Commentary*

The current method used by voting officers of asking questions is antiquated. It relies upon the honesty of the voter to confirm that they have not already voted. There is no doubt that the vast majority of voters answer these questions honestly however we cannot be certain that they have done so.

2.4.2 *Recommendation*

A minor update should be made to the electoral role with a "Yes/No" field to capture the answer to the question "Have you voted before in the election?".

Voting officers should be provided with tablets that will allow them to access the electoral role and mark the voter's response to the question. This would mean that voting officers at another polling station would now be able to instantly confirm whether or not the voter had already done so.

3 Electoral Matters Not in the Bill

3.1 ELIAS Database

3.1.1 *Commentary*

On application, the AEC issues a CD containing the ELIAS database which contains the electoral roll. The CPP has been receiving the ELIAS disks since August 2019. The disk is extremely useful since it enhances the ability of a party to verify the enrolment details of

an applicant for party membership or of the party member's enrolled address. It does so because it contains data, such as a person's date of birth and the street number of their address, that is not available via other sources such as the Check Enrolment page on the AEC website.

The sort of thing we encounter, which we are sure other parties also encounter, is that an applicant for membership will do something like write their address as, for example, *23-6 Acacia Avenue* while the enrolment record shows it as *12/6 Acacia Avenue*.

When a party is going through the verification process for either registration or ongoing registration, that small difference can cause the person's details check to fail. We recently encountered exactly that issue here in SA.

If a federally registered party receives an application from a person in another state with an address that differs from the electoral roll as described above, a record check by the AEC will fail, possibly negatively impacting a party's registration application.

The CPP is registered in SA and as a Federal party. When we started receiving the disk, we discovered that we could only access the electoral roll records for SA citizens. When we queried this with the AEC, we were advised that:

Subsection 90B(3) of the Commonwealth Electoral Act states:

In spite of subsection (1), the Electoral Commission need not give a registered political party information in relation to persons enrolled in a State or Territory unless a branch or division of the party is organised on the basis of that State or Territory.

As can be seen from the subsection above, the AEC **need not** provide a registered political party information relating to persons enrolled in a state or territory. This suggested to us that the restriction is a decision made by the AEC Commissioner and is not mandated in the legislation.

What we don't understand is the rationale behind this restriction. If a party is registered as a Federal party, we see no justification for this restriction.

This yet another aspect of electoral legislation that negatively impacts minor parties.

3.1.2 Recommendation

The CPP recommends that, upon application, any party registered as a federal party **must be** provided with the ELIAS disk providing access to the entire electoral roll.

3.2 Party Registration in Tasmania

3.2.1 *Commentary*

Together with our Tasmanian colleagues, we are recruiting members in Tasmania with a view to establishing a branch of the CPP in Tasmania.

As part of the processing of an application to register a political party in Tasmania, the Electoral Act 2004 Part 4 Section 45 requires that the names and residential addresses of at least 100 party members who support the application be published in all 3 major newspapers in Tasmania.

When the CPP applied for registration here in SA, we had to provide similar declarations and a list of all members supporting our application. However, when the application was promulgated in our newspapers, the names and addresses of those members were not published. When our application for Federal registration was being assessed by the AEC, the 500 members supporting our application did not have their personal details published.

We are also working towards establishing branches in all other states and territories. To that end, we have been investigating the requirements for registration across the nation. It seems that none of the other states or territories publishes members' names and addresses.

It is disturbing that Tasmania appears alone in requiring members to have their names and residential addresses published.

This concerns the CPP for the following reasons:

- The Tasmanian Electoral Act 2004 Part 4 Section 45 appears to be in direct conflict with the UN Convention on Human Rights (UNHCR) to which Australia is a signatory.
- Child protection operates in closed courts, mandatory reporters are anonymous and the privacy of parents and their children is maintained.
- Many Australians have suffered because of domestic violence and many have restraining orders against the abusive partner. The AEC protects such people by allowing them **Silent Voter** status. Although we do not yet have sufficient numbers to apply for registration in Tasmania and none of our Tasmanian members has Silent Voter status, in reaching the number of members required for registration, we may well recruit members with Silent Voter status.

Publication of the names and addresses of members supporting the application:

- is an abrogation of a person's rights under the UNHCR;
- removes the anonymity granted to those affected by the child protection system in Tasmania;

- **endangers the safety of party members who have been granted silent voter status by the AEC**– a completely unacceptable state of affairs.

The CPP contacted the Tasmanian Attorney-General and Shadow Attorney-General in 2018 when the Electoral Act 2004 was under review by the Tasmanian Department of Justice. We asked that, when amendments were considered, the Tasmanian Government include the removal of the requirement for the Tasmanian Electoral Commission to publish the names and addresses of the party members supporting the party's application for registration. This change would require the amendment of Part 4, Section 45(2)(a) to read:

(a) include the particulars referred to in section 44(1)(a), (b), (c), (d) and (e); and

Such a change, we believe, would negate the risks outlined above.

The CPP received acknowledgements from the Attorney-General and Shadow Attorney-General despite that they had received our email. The CPP was never asked to provide a formal submission, nor were we advised that submissions were being sought from any external agency or the public and we were unable to find any such request of the Tasmanian government website.

The 2004 Act appears to still be in force which means that vulnerable members of any party seeking registration in Tasmania remain at unnecessary risk, one that appears to be very easily resolvable.

3.2.2 Recommendation

The CPP acknowledges that the Federal Government cannot change the Tasmanian legislation.

The CPP recommends that the Federal Government exercises their influence by draw attention to this problem with the Tasmanian Government and recommending that they change the legislation in order to protect Tasmanian citizens.

[Redacted Signature]	Jul 3, 2020
Signed	Date

Avery Hilditch
Secretary
Child Protection Party

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