

Improving democracy and the accountability of political parties

Fairness, transparency, access and accountability are the fundamental principles of the Australian electoral system.

To its shame and to the detriment of Australia's electoral system, those principles have become tattered under the Howard Government.

Labor has always believed in those principles. Labor recommends the Parliament take direct steps to re-fresh the electoral system, open it up and make political parties more accountable.

There is no better example of the Howard Government's cynical attitude toward electoral law than its approach to political donations.

The Liberal Party has opposed almost every measure designed to improve the disclosure of political donations. The Howard Government has consistently ignored pleas from the Australian Electoral Commission to tighten the disclosure provisions of the Electoral Act. As a result, loopholes in electoral law to hide political donations have been exploited and the AEC is unable to properly pursue concerns over secret donations linked to organisations such as the Greenfields Foundation, Australians for Honest Politics and the Cormack Foundation .

Labor supports reforms which would close the loopholes, flush out the secret political donations and make political parties and their associated entities fully disclose their sources of income.

Political donations should not purchase influence. The Parliament must put a stop to the *money culture* which pervades political fundraising in Australia.

All Australians over 18 should be able to enrol and vote. Labor believes the integrity of electoral enrolment can only be assured if all Australians can easily enrol and the Roll is safe. Labor supports reforms to address the serious problems of under-enrolment by young, homeless and indigenous Australians.

Uncertainty in the electoral cycle impedes good government. Fixed four-year terms for both the House of Representatives and the Senate would reduce the uncertainties and limitations of our current system and improve the quality of our government. They would be good for our democracy. Labor supports, and will work towards, fixed four-year parliamentary terms.

Improving the transparency and accountability of political donations & political parties

Political parties are a constituent part of our democracy and play a key role in the development of public policy. As such, they must be publicly accountable.

The perception that political donations not only buy access to Ministers but also buy public policy contributes to the electorate's cynicism about the political process.

Political donations should not purchase influence. Labor supports reforms which will put a stop to the *money culture* which pervades political fundraising in Australia.

Accountability of political parties and their donors should be a fundamental part of our democracy.

The measures set out below will go a long way towards taking the sleaze and money culture out of politics.

LABOR:

- Supports tightening the laws governing political donations so all fundraising bodies assisting political parties must fully and promptly disclose the true source of their donations.
- Supports re-writing the sections of the Electoral Act governing political donations to close loopholes, flush out secret donations and make political parties and their associated entities fully and publicly disclose their sources of income.
- Opposes Liberal Party proposals to hide political donations by raising the disclosure threshold for donations from \$1,500 to \$5,000 or even \$10,000. Raising the threshold to \$10,000 would mean about 70% of donors would be kept secret. Labor will not support increasing the disclosure threshold.
- Labor supports practical changes to the Electoral Act to promote ethical behaviour. For example:
 - Political entities such as Tony Abbott's slush fund 'Australians for Honest Politics' will be forced to fully disclose the true source of their finance.
 - Political party annual returns to the AEC will have to be accompanied by a report from an accredited, independent auditor. So will the annual returns of associated entities like the notorious Greenfields Foundation and the Cormack Foundation – vehicles established by the Liberal Party to warehouse and hide large political donations.
 - Political donations received from outside Australia will be prohibited.
 - Funds raised at auctions or celebrity dinners will need to disclose who actually paid the money.
 - Donations to political parties or their associated entities of over \$10,000 must be disclosed within seven days of their receipt.

- The AEC will be given more power to ensure compliance with the law.

Ending tobacco sponsorship of political parties

Every year, about 19,000 Australians die from smoking-related illnesses. Smoking is the largest cause of preventable deaths in Australia. The cost to the nation of smoking is \$21 billion per year.¹

Labor believes it is hypocritical for political parties to receive donations and sponsorship from tobacco companies while on the other hand warning the public about the dangers of smoking and banning cigarette advertising and sponsorship of sporting events. Political parties' acceptance of tobacco money is a double standard.

Labor supports strong incentives for parties to show leadership over a significant health issue in Australia.

The Parliament should not allow income from political fundraising to compromise leadership over such an important health issue for Australia.

LABOR supports changing the Commonwealth Electoral Act to deny public funding to any candidate or political party that accepts donations from the tobacco industry

¹ Statistics provided by the Heart Foundation and the Cancer Council.

Political parties to pay for political Government advertising

Labor supports making political parties pay for party political advertising disguised as government information campaigns.

The advertising should be measured against the relevant Audit Guidelines, which are the principles and guidelines set out in appendix 1 of report 12 of 1998-99 of the Auditor-General. These Guidelines are well known to all parties.

The cost of any advertisements found to be in breach of those Guidelines should be billed to the political party in government when the advertising was aired. The cost of the advertisements should be deducted from their public funding following an election.

Assessment of compliance with the Audit Guidelines should be made by an independent authority at arms length from the government, such as an independent Auditor of Parliamentary Allowances and Entitlements. The assessment will be reviewable.

LABOR supports legislatng to have **all** government advertising campaigns measured against the Audit Guidelines. This will include television, newspaper and billboard advertisements, as well as booklets.

Tax-deductibility of political donations

Political parties are not charities and political donations to them should not be tax deductible.

Labor believes that, while donations to charities are generally deductible, it is not reasonable for political parties to claim the same status. This is because, unlike charities, registered political parties receive significant public funding based upon their primary vote at elections.

For political parties to keep getting two bites at the cherry (public funding and deductibility of donations) would be unfair.

LABOR supports abolishing the tax-deductibility of political donations, saving the tax-payer approximately \$3 million per year.

Fixed four year terms for the House of Representatives and the Senate

Labor supports the introduction of simultaneous fixed four-year terms for both the House of Representatives and the Senate. [Platform para 16, chptr 16]

Uncertainty in the electoral cycle impedes good government.

Fixed four-year terms for both the House of Representatives and the Senate would reduce the uncertainties and limitations of our current system and improve the quality of our government. They would be good for our democracy.

Instead of the vacuous debate about when an election might be held, Members of Parliament would be focussed on serving out their terms, business would not have any uncertainty about the timing of the electoral cycle and, most importantly, ordinary Australians would have a set time over which they could judge their governments. No government would be able to manipulate the electoral cycle for political advantage.

Labor also supports maximum four-year terms for the Senate. An eight-year term for Senators is simply too long for mandates to have any meaning.

With such a constitutional change, every election in effect becomes a double dissolution election – giving the people the ultimate say over any blocked legislation. This is the most democratic way of resolving deadlocks.

Improving the franchise and the security of the electoral roll

Labor believes the integrity of electoral enrolment can only be assured if all Australians can easily enrol and the Roll is secure. These matters are equally important – enrolment must be fair and the Roll must be safe.

There are three problems with fair enrolment which require urgent attention.

Young Australians are not enrolling.

Young Australians are significantly under-enrolled. Enrolment figures show that, as at January 2004, only 71% of 18-20 year olds are enrolled.

Working with community groups, Labor successfully stopped the Government's proposed early closure of the rolls. If the rolls were closed for new enrolments on the day the election is called it is estimated by the AEC that 80,000 people (most of whom are under 20 years old) would be blocked from voting.

Homeless people are being left off the Roll.

Homeless people are very significantly under-enrolled and the Howard Government's proposed early closure of the rolls would make it worse. The ABS estimates that on any given night in Australia there are 105,000 homeless people. Very few of them are enrolled to vote. Under section 96 of the Electoral Act, people can enrol as "itinerant electors", yet in June 2004 only 5,494 people were enrolled that way.

Even allowing for the wide range of circumstances affecting enrolment and homelessness, such a huge gap between the number of homeless Australians and those enrolling as *itinerant voters* indicates many homeless people effectively lose their right to vote when they lose the roof over their head.

Aboriginal Australians are being systematically kept off the Roll.

Currently, out of the 260,000 Aborigines in Australia over 18 years old, only approximately 140,000 (or 54%) are enrolled to vote – in stark contrast to the 95% of all Australians who are enrolled. This is in large part due to the policies of the Howard Government. In its 1996 Budget, the Government forced the AEC to cut the Aboriginal and Torres Strait Islander Electoral Information and Education Service.

Labor supports:

- Working with State Governments to ensure young Australians applying for their driving Learner Permits are required to provisionally enrol.
- Requesting the AEC to urgently report on the effectiveness of Commonwealth and State programs currently devoted to improving and sustaining the enrolment levels of young, indigenous and homeless Australians.
- Funding the AEC to provide programs targeting Aboriginal enrolment and electoral education.

Committee Secretary
Joint Standing Committee on Electoral Matters
Department of House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Supplementary Submission on behalf of
the Australian Labor Party

Dear Committee Secretary

Please find attached a supplementary submission from the ALP for the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto being conducted by the Joint Standing Committee on Electoral Matters.

Regards



Tim Gartrell
National Secretary

**Joint Standing Committee on Electoral Matters
Inquiry into the 2004 Federal Election
Supplementary Submission
from the Australian Labor Party**

Introduction

At the 8 August 2005 public hearings of the Joint Standing Committee on Electoral Matters, Inquiry into the 2004 Election, the ALP was asked to provide further information on a number of points. This short supplementary submission addresses these issues.

Misleading campaigning in Melbourne Ports

At the public hearing Mr Tim Gartrell, National Secretary of the ALP, signalled that he would provide further information supporting submission number 155, regarding campaigning techniques in Melbourne Ports. The actions of the Liberal Party in Melbourne Ports on polling day are a concern to the ALP. As submission number 155 details, how to votes cards were distributed by the Liberal Party which were designed to mislead voters interested in voting for the Australian Greens into voting for the Liberal Party candidate.

These cards, which were in the same vertical format and the same colour as the Australian Greens card, and quite different to the official Liberal Party card, were distributed by teams of young people wearing green tee-shirts and green baseball caps. The cards were authorised by Mr Julian Scheezel, state director of the Liberal Party. Photos have been attached to this submission demonstrating this, as have reproductions of the how to vote cards.

The distribution of this card needs to be seen in its proper context. I have been informed that the card was handed to intending voters by the canvassers in green tee-shirts, who were saying to voters as they approached phrases like "Green?" and "Voting Green?". Sworn statutory declarations to this effect are attached.

It is highly likely that *some* voters were deceived, and indeed the statutory declarations presented show that some voters *were* deceived. If the result in Melbourne Ports had been very close, only a very small number of votes directed to Mr Southwick that the voters *intended* to be directed to the Greens and then possibly to the ALP as preferences might have been decisive.

The ALP believes that the AEC should take into account not just whether the card has been correctly authorised, but also the totality of the circumstances in which cards of this type are distributed. This is exactly the position taken by Senator Brandis, in an earlier hearing, in relation to his allegations against the group 'Liberals for Forests' in the Division of Richmond.

As the committee has already heard Mr Paul Dacey of the Australian Electoral Commission (AEC) has stated that in his opinion the card does not contravene the *Electoral Act* because it is correctly authorised and because Mr Southwick is identified on it as the Liberal candidate in Melbourne Ports. It is not in dispute that the how to vote card was correctly authorised. The ALP believe however, that the methods used in distributing this card were designed to deceive and mislead voters in Melbourne Ports into thinking they were voting for a candidate from the Australian Greens. We believe that this action may be covered by section 329 of the *Electoral Act*, however, should the distribution of material in a misleading fashion not be covered by this provision, we urge the Committee to investigate possible amendments to the Act to address this abuse.

Overseas donations

Under the current disclosure arrangements contained in the *Electoral Act*, it would be possible for unscrupulous political parties to channel money through untraceable overseas bodies and sources. Even though there must be disclosure of any donation above the threshold limit, there is no requirement for overseas donors to disclose, making it impossible to determine whether they are the real source of the donation. There is also no way to enforce adequate and accurate disclosure of information from overseas entities under domestic law.

We note that the AEC has previously supported a tightening of the law to address the issue, recognising that overseas donations provide "an obvious and easily exploitable vehicle for hiding the identity of donors through arrangements that narrowly observe the letter of the Australian law with a view to avoiding the intention of full public disclosure".¹

The ALP believes that this threat must be addressed by urgent amendment to the *Electoral Act*. The ALP believes that the Joint Standing Committee on Electoral Matters should fully canvass the issue, and produce constructive commentary on possible regulation of the area. As we stated in our first submission, we believe there are two options open to the Federal Government. Firstly, that overseas donations be banned entirely, or secondly that they be re-payable if their true source is not adequately disclosed or the entity fails a compliance audit. The ALP believes that there may be a strong case for investigating tighter disclosure laws in the first instance, and banning donations if this is demonstrated to have failed.

¹ AEC Submission JSCEM, 2001.

Misleading and deceptive statements in election materials

At the 8 August 2005 hearing of the Inquiry Senator Murray asked the ALP National Secretary to provide some additional commentary on his proposal for a 'honesty in political advertising clause' in the *Electoral Act 1918*, similar to the one that appears in South Australian legislation.

As members are aware from the original submission from the ALP, we remain concerned that the Liberal Party distributed materials during the 2004 election campaign which carried quotations attributed to the Reserve Bank of Australia and the Australian Bureau of Statistics, even though no quote from these organisations existed.

The relevant section which Senator Murray has referred to is section 113(4) of the *South Australian Electoral Act 1985*. It reads:

Misleading advertising

113. (1) This section applies to advertisements published by any means (including radio or television).

(2) A person who authorises, causes or permits the publication of an electoral advertisement (an "advertiser") is guilty of an offence if the advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent.

Maximum penalty:

If the offender is a natural person-\$1 250;

If the offender is a body corporate-\$10 000.

(3) However, it is a defence to a charge of an offence against subsection (2) to establish that the defendant-

(a) took no part in determining the content of the advertisement; and

(b) could not reasonably be expected to have known that the statement to which the charge relates was inaccurate and misleading.

(4) If the Electoral Commissioner is satisfied that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Electoral Commissioner may request the advertiser to do one or more of the following:

(a) withdraw the advertisement from further publication;

(b) publish a retraction in specified terms and a specified manner and form,

(and in proceedings for an offence against subsection (2) arising from the advertisement, the advertiser's response to a request under this subsection will be taken into account in assessing any penalty to which the advertiser may be liable).

(5) If the Supreme Court is satisfied beyond reasonable doubt on application by the Electoral Commissioner that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Court may order the advertiser to do one or more of the following:

(a) withdraw the advertisement from further publication;

(b) publish a retraction in specified terms and a specified manner and form.

The ALP recognises that Senator Murray has long campaigned for reform of the *Electoral Act*, based on the South Australian Provisions.

The ALP believes that these provisions have been tested constitutionally in the South Australian jurisdiction, and do not infringe on any implied rights. Similar provisions were introduced to the Commonwealth Parliament in 1995, but lapsed with the federal election of 1996. The current federal government has not sought to reintroduce any legislation in this area. The ALP believes that regulation of electoral advertising is viable, provided that the AEC is resourced to carry out any additional duties. Regulation could take the form of either regulation through guidelines or regulation through legislation.

We believe that if there is to be regulation of this area then it should be through legislation.

The ALP is willing, as a general principle, to consider proposals which would prevent the publication of misleading and deceptive materials, which carry incorrect third party endorsements, subject to scrutiny by our governing bodies and parliamentary party.