

## Review of the Parliamentary Electorates and Elections Act 1912 and the Election Funding, Expenditure and Disclosures Act 1981

**Organisation:** Australian Sex Party NSW

**Name:** Mr Andrew Patterson

**Position:** Registered Officer

**Date Received:** 31/05/2012

**AUSTRALIAN SEX PARTY NSW**

Andrew Patterson  
Registered Officer  
PO Box A1364  
Sydney South  
NSW 1235

31 May 2012

**Via email**

The Hon Trevor Kahn MLC  
The Chair  
Joint Standing Committee on Electoral Matters  
Parliament House  
Macquarie Street  
Sydney  
NSW 2000

Dear Chair and Committee Members,

**Re: Review of the *Parliamentary Electorates and Elections Act 1912* and the  
*Election Funding, Expenditure and Disclosures Act 1981***

The Australian Sex Party NSW (hereinafter "the Sex Party") would like to sincerely thank you for your invitation to make a submission to this Inquiry, and I write in response to that invitation.

As you note in your letter of invitation, we did make a submission to your recent Inquiry into the Administration of the 2011 NSW Election and Related Matters. In our view, our entire previous submission is also pertinent to the current Inquiry. We also have some additional points to make.

I won't restate our Party's electoral status and experience to date in NSW, as the Committee will already be aware of this from our previous submission.

For ease of reference, I have divided our current submission into two parts. Submission Part A comprises the items reiterated from the previous submission, and with which the Committee is already familiar. Submission Part B contains some new and/or amended items we would like to offer for consideration. Our submission therefore is as follows below.

## SUBMISSION – Part A

### 1. Registration Issues:

- 1.1 The Sex Party recognizes that there need to be rules around the registration of political parties, however, our view is that the rules in NSW are overly onerous, unfair, and inhibiting of the development of fresh political groups, thereby damaging the democratic process.
- 1.2 The requirement to have 750 members, all of who have returned forms to the Electoral Commission, is well above the comparable Federal requirements and those of other States. Since the requirement for Federal registration is only 500 members, it is our submission that this should be reflected in the NSW legislation, as it is in the majority of States.
- 1.3 We believe that the same rules around registration should apply across the board for all political parties. Whilst new parties trying to register do face the same rules, those parties who were registered before the requirement for 750 members seem to be able to retain their registration regardless of actual verifiable membership.
- 1.4 Our submission is that all parties should be subjected to the same registration verification procedures prior to each State election. In short, all political parties should have to have the requisite number of members (in our view the number being 500) confirm their membership to the Electoral Commission prior to an election. The current system, whereby existing registered parties only have to submit an annual return affirming they are still eligible for registration, means that existing parties can maintain their registration for election purposes regardless of verifiable membership, whereas new parties cannot gain registration because they are not being measured by the same standards.
- 1.5 We also submit that the communication methods for the registration process need to be updated to reflect contemporary society and its commonly used technology. Currently, most registration paperwork for the Electoral Commission is required by traditional mail. It is our submission that the Electoral Commission should equally allow electronic forms of communication for registration purposes, given how many citizens now conduct the majority of their administrative business via an e-platform.  
**Note: We acknowledge that the Electoral Commission is in the process of implementing various electronic platforms, and, in fact, we are now using the electronic registration system notified to us recently.**
- 1.6 It is our view that the current registration rules are unnecessarily stifling the emergence of legitimate new political parties. The arrival of new parties when there is support for them amongst thousands of citizens is a feature that any healthy democracy should laud and encourage. Instead in NSW we have a regulatory system which actively inhibits such democratic evolution.

## **2. Polling Booths & Church Interference:**

- 2.1 The Sex Party is committed to the position that Australia is a secular society, and that the political system should respect all citizens irrespective of their religious beliefs. It is our position that religion and churches should have no active role in the administration of our political and electoral systems.
- 2.2 There was an incident at a polling booth [REDACTED] during the 2011 State election which impacted on the Sex Party. At the polling booth [REDACTED]  
[REDACTED]  
our Party volunteers were instructed [REDACTED] to remove our election posters from the fence outside the hall. All parties had posters affixed to the fences, and yet it was only our Party who was told to remove our posters. This was a clear interference in the election process by a religious representative, who clearly did not agree with our Party's views. Whilst we fully acknowledge the [REDACTED] right to disagree with our political views, what we cannot accept is [REDACTED] interference in the conduct of an election. Given that the churches are paid, effectively by the taxpayer, to host polling booths, on the basis that the premises are being leased out for electoral purposes, they should have no say in how those polling booths are conducted.
- 2.3 Our submission is that, ideally, in our secular society, election polling booths should be conducted in secular settings, and church premises are not appropriate for this purpose. In the logistical event that church halls are deemed essential to provide sufficient polling booths, then the Electoral Commission has a responsibility to ensure that no political party or candidate is disadvantaged by virtue of a priest imposing his non-secular views on the electoral process.
- 2.4 It is also our understanding from media reports that the Greens Party had a similar issue [REDACTED] at a polling booth at [REDACTED] interfering with their right to mount electoral posters outside a polling booth – they were told to take them down according to the reports. This incident underscores the point we have raised in relation to our experience at the [REDACTED] polling booth.

## **3. Financial reporting requirements:**

- 3.1 The Sex Party recognizes that there need to be rules around the financial arrangements for political parties, however, it is our view that the current provisions are unfair, particularly in respect to unregistered parties and independent candidates.
- 3.2 The current financial rules appear to have been devised to deal with major political parties and their financial arrangements, and the Sex Party has no problem with this situation. However, the same rules are applied to unregistered parties and independent candidates, as our experience of the 2011 election has shown us. It is our submission that it is unfair to apply the same very onerous rules to unregistered parties and independent candidates, when they don't enjoy the electoral benefits of the registered parties, and they

don't have anywhere near the financial machinery or cash flow of the registered parties.

- 3.3 It is our view that the current financial regulatory framework equally serves to inhibit the emergence of new political parties, as discussed above in our comments on registration.

#### **4. Residency of candidates for Legislative Assembly seats:**

- 4.1 It is the view of the Sex Party that representative democracy should be just that, representative. A candidate who stands for election in a given seat (Legislative Assembly) should be a resident of that seat in order to properly represent the seat.
- 4.2 The 2011 State election showed, as have previous elections, that parties can import candidates to stand for seats with which they have no residential connection. It is our view that this does not serve the foundation upon which representative democracy is built.
- 4.3 It is our submission that the electoral legislation should require that candidates for Legislative Assembly seats should have to actually be resident in the relevant electoral area. This rule is currently applied to local government in NSW, and we do not see why it should not be equally applied to State Parliament.

### **SUBMISSION – Part B**

#### **5. Electoral Donations:**

- 5.1 The Sex Party recognises that there needs to be solid accountability and clear transparency around the issue of electoral donations. Therefore we accept that there need to be rules governing this issue.
- 5.2 It is our submission, however, that the current rules around donations are draconian and unfair on fledgling parties and independent candidates. The situation now existing in NSW is that without wealthy individual backers, parties and candidates will be faced with impossible hurdles to their campaigning. The effect of this will be to drive NSW towards being a plutocracy, a situation which will be detrimental to minority groups and voices of all persuasions. Political debates and campaigns should be conducted on their merits, and should not be subject to "victory by chequebook".
- 5.3 We find it unfair that our NSW branch and candidates cannot be provided with any financial support from our Federal Party.
- 5.4 Again, we ask why it is that NSW has seen it necessary to depart from the fairer democratic approach taken in the Federal jurisdiction as well as the other States?

## **6. Financial Auditing:**

- 6.1 The Sex Party recognises the need for auditing as a tool to measure and enforce compliance with the electoral funding rules. However, it is our view that the approach to auditing needs to be sensibly and fairly applied. Our 2011 election experience shows that this is not currently the case.
- 6.2 It is unreasonably onerous to require small parties, unregistered parties, and independent candidates to have a registered company auditor carry out an official audit of their election accounts in every instance. In our Party's case, both our independent candidates at the NSW State election were charged \$440 each for their audits, where one candidate spent less than \$10,000 and the other candidate spent nothing other than his nomination fee. Even our (State level) unregistered Party had to spend \$440 on an audit, in order to comply with the electoral rules. And the Party, being unregistered, receives none of the electoral benefits of the registered parties. This does not appear to be a sensible or fair approach to the issue, and begs the question what exactly is the point?
- 6.3 It is our submission that there needs to be a realistic and graduated approach to auditing electoral expenditure. Where a candidate and/or party spends only a few thousand dollars or less, we cannot see the justification for having to supply a full official audit. The fact that one of our independent candidates spent more on his audit than on his actual campaign underscores our point. Clearly there should always be the option for the Commission to audit the expenditure records, but the official audits required of candidates and parties need to be reviewed. It is our submission that a more realistic approach is for the mandatory official audits only to apply to campaign expenditure (independent candidate or party) over a reasonable amount, say \$20,000.

## **7. Democracy in general:**

- 7.1 As stated throughout this submission, the Sex Party acknowledges the need for various rules to ensure the orderly running of the electoral system and to safeguard its integrity.
- 7.2 Our final point is that, in our submission, the rules in place, whilst serving their legitimate purpose, should not undermine the democratic spirit of our society. Rules which may be well-intentioned, but in practice effectively inhibit and/or prevent the emergence of new political parties, are not in reality encouraging and supporting democracy. What is the point of having rules to purportedly foster good democracy, when in fact they are simply stifling new democratic voices and can therefore be seen as the political Establishment merely using the law to protect its own interests? It is our submission that NSW needs to strike a better and fairer balance between the need for electoral rules and the genuine nurturing of a wide and varied democracy.

I make the following two points to conclude this submission:

- Should the Committee deem it useful for the purposes of this Inquiry, then the Sex Party would be very happy to provide an Executive official to appear before any public hearings held by the Committee.
- The Sex Party is quite happy for this submission to be made public and does not request that any aspect of it be kept confidential.

I thank you again for providing us the opportunity to participate in this Inquiry.

Yours sincerely,

**Andrew Patterson**  
**Registered Officer**  
**Australian Sex Party NSW**