

Submission

No 7

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

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CHRISTIAN DEMOCRATIC PARTY

SUBMISSION

FOR

**REVIEW OF THE PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912
AND THE ELECTION FUNDING, EXPENDITURE AND DISCLOSURES ACT 1981**

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EXECUTIVE SUMMARY

Several of the items identified in this submission by The Christian Democratic Party (CDP) were included in our submission to the Inquiry into the 2011 NSW State Election. We believe, however, their importance necessitates their re-inclusion in this submission.

The goal to make elections in NSW free, open and honest must always be at the forefront of any discussion to amend electoral procedures. We believe that with the continual advancement of technology that every opportunity to advance the electoral process and close any loopholes (whether perceived or actual) or to make the ability to vote more accessible must be taken.

Similarly, the need to continually monitor and improve the process of election funding and reporting is very important to ensure that there is no advantage given to one political party over any others.

Such advances need to be done in a controlled fashion such that their enactment through Parliament and subsequent implementation through the EC & EFA always enables the effected parties sufficient time to implement any necessary changes: the change itself, no matter how worthwhile, must not be rushed through in such a way that it provides advantage to one party over another. This would immediately negate the premise of providing free, open and honest elections.

The CDP would also like the inquiry to note its objection to the fact that Part 2 of the Parliamentary Electorates and Elections Act 1912 (the PE&E Act) is excluded from this inquiry. We believe that the whole process of electorate distribution is a major source of introducing individual party advantage to the electoral process and therefore negates the whole premise of *‘providing free, open and honest elections’*.

SUBMISSION

1. Legislative Council Preferences

There is obviously much confusion between State and Federal procedures when completing ‘Upper House’ voting papers and to a lesser extent ‘Lower House’ voting papers.

Unfortunately, this confusion is not just with voters but more importantly with several polling booth workers who did not understand how the Legislative Council Voting Papers were to be completed. It would seem that this was not an isolated instance and that workers in more than 1 electorate advised voters that they could only put a ‘1’ ‘above the line’ and no other number.

This appears to be a training issue as an attendee at an election meeting where Reverend Fred Nile spoke and who had just participated in a Polling Booth worker training session was adamant

that preferences could not be shown above the line, despite Rev Nile trying to advise the correct arrangements.

This was reinforced when both the CDP Office and individual coordinators were contacted by concerned voters who had been advised by Polling Booth workers that their vote would be informal if they put more than one number ‘above the line’, even though our and the Coalition Party’s How-to-votes showed otherwise!

Recommendation 1

Electoral Commission employee training must focus on important issues such as voting procedures and Polling Booth workers (including Booth Managers) must complete a test that shows they understand the voting system before they can be employed.

Recommendation 2

More targeted TV, Newspaper and Radio advertising needs to be developed to show people exactly how to complete voting papers.

2. Introduction of Significant Electoral Reform

Parliamentarians need to be aware of the time required to update systems and procedures and conduct training when significant electoral reform is enacted.

The EC and the EFA as well as effected entities had to cater for many substantial changes to the processes, rules and procedures covering the whole gamut of election activity; from Party Funding right through to Voting Methods before the 2011 State Election.

Most of these changes had significant computer and manual system impacts as well as needed many new forms to be designed or old ones re-designed. These changes then had to be conveyed to effected entities by way of training or communication. We commend the EC and EFA for the results they achieved but in such a high-pressure environment mistakes are made or delays occur because of the complexity or volume of activity required.

It is not only the EC and EFA that have to update systems and procedures but impacted entities need to be considered as well when changes are enacted. The latter are obviously delayed until such time as the specific requirements are made known by the EC or EFA. This is especially important when major compliance requirements are at stake and the entities effected by such changes do not have access to limitless resources.

When significant time is allowed for changes to be implemented, issues relating to compliance adherence, user-friendliness of screen displays, information presentation and forms will be diminished.

Section 120AD of the PE& E Act mandates an Independent Audit of technology assisted voting procedures. The time-frame for the submission of results before an election is too short. It should be extended to at least 90 days to allow enough time for possible correction of identified problems. With a period of 7 days before an election, the Commissioner may have no choice but to abandon a number of changes which are verified and will be quite beneficial to the election process but will have to be overlooked because the Commissioner deems it is too risky to run with these because there is not enough time to back out the problem software changes and still verify that the revised system is still viable.

This could cause a waste of many thousands of dollars if advertising, printing, training, hardware and software commitments had already been made in association with how an election was envisaged to be administered.

Recommendation 3

A moratorium to implement significant electoral changes should be in place one year out from a State Election to ensure that systems and procedures, including training and communication, can be implemented well in advance of the actual election.

Recommendation 4

The time frame (at least 7 days before voting commences) of Section 120AD Point (2) (a) for the submission of an Independent Audit of technology assisted voting procedures to the Electoral Commissioner is too short: it should be extended to at least 60 days to allow enough time for possible correction of identified problems.

Recommendation 5

Although the Electoral Commissioner is obliged to engage an Independent Auditor (Section 120AD) to review information technology used under the ‘approved procedures’, the EC and EFA should also implement a regime of Beta testing for significant changes rather than depending on ‘in-house’ system testing and this external audit process.

3. Technological Advances to Electoral Processes

With all the current advances in Technology, we believe several improvements in the electoral process can now be introduced or planned for budget approval:

A. Electorate Enquiry Facility

We presume other political parties may be similarly impacted by the number of constituents requiring information about enrolment details or questions about where and how to vote. Also, the queries that the CDP Office receives do not just come from CDP members and supporters. These enquiries often come from people who do not have ready computer access and/or have given up waiting on the phone for an EC telephone response.

The new ‘List of Streets and Localities’ guide is a great resource to help with such enquiries. However, as a 292 page document it is not the speediest document on which to enquire even when searching the downloadable version. Also, this document becomes obsolete once an electoral redistribution occurs or new streets are created.

Recommendation 6

The EC needs to develop an on-line enquiry into which a street number, name and suburb can be entered and the corresponding electorate is advised. If the enquiry was also able to provide information about nearest polling booths then this would greatly reduce the time taken to answer such enquiries not only for individuals and political parties but also, we are sure, the EC.

B. Electronic Checking of Voters

When Voters attend a Polling Booth, they should be signed off against an electronic version of the electoral roll. This will prevent multiple votes being recorded against a voter and flag potential rorting.

Recommendation 7

Start using an electronic version of the electoral roll to check off voters.

C. Electronic Voting at Booths

Although major planning, infrastructure and development will be required, there are existing technology platforms that will enable electronic voting on election days. This will dramatically reduce the amount of paper required but if properly designed, will speed up the counting process and reduce the informal vote count.

Recommendation 8

Expand the existing IVote facility to enable electronic voting at Polling Booths.

4. Voting Age

We understand that some people would like to see the voting age reduced to 16. The CDP is totally opposed to any further reduction in the age at which a voter becomes eligible to vote. There may be a small number of 16 year olds who are mature enough and aware enough of political issues but they are the exception.

Recommendation 9

There be no reduction in the voting age.

5. Postal Voting

We believe that the current system of mass mailing by Political Parties to encourage voters to submit Postal Vote applications and return these applications to a Party or candidate address strikes at the whole concept of a secret ballot. There is evidence to suggest that election outcomes have been impacted by subsequent follow-up of electors by candidates and/or Parties.

In fact, in 1993, the Australian Electoral Commission condemned the distribution, on a mass scale of Postal Vote applications with return addresses to parties or candidates, to the Joint Standing Committee on Electoral Matters. It said that this two-stage process posed a danger by the increased and improper use of postal voting facilities. It asked that the Electoral Act be amended to prevent the practice.

Also, there should be no hint of collusion of EC officers or the use of Electorate Offices for Party Political purposes, such as harvesting information about Postal Votes in an attempt to influence the outcome of an election.

Recommendation 10

It should be an offence for any person or entity to solicit a Postal Vote application or a copy thereof to be returned to any address other than the official Electoral Commission address for Postal Vote applications. The disturbing trend of seeking to influence and lock in a vote through Postal Vote applications should end. Only genuine cases, strictly authenticated, of

an inability to attend a polling booth should be allowed to submit a Postal Vote. There should be no issuance, collection or collation of Postal Vote forms other than by EC officers.

Recommendation 11

Police should be given the power to conduct selected inspections with warrants upon targeted Electorate Offices during the next Election period at times during and after business hours for the purpose of discovery of illegal conduct and use of such electorate offices for Party Political purposes.

6. Pre-polling

Current voting trends would indicate that the number of voters using the Pre-Poll option is increasing every election. It is hard to believe that all these ‘Pre-Pollers’ are not able to attend a Polling Booth on Election Day.

I know from personal experience of manning a Pre-Poll Booth that many voters see ‘Pre-Polling’ as a convenient way to get their voting ‘out-of-the-way’ before Election Day even though they would be able to attend a Polling Booth on Election Day. I have seen the ridiculous situation of a wife loudly complaining that she was not allowed to pre-poll but her husband was when the husband had obviously bypassed scrutiny earlier in the day! The level of scrutiny of voters being allowed to Pre-Poll seems to vary greatly according to whom is manning the Booth.

The current ‘declaration’ that a Pre-Poll voter needs to submit is obviously a minimal deterrent to prevent voters from submitting a Pre-Poll vote even though they are ineligible to do so.

Recommendation 12

Either the ‘Pre-Poll’ declaration needs to be tightened to ensure true eligibility to ‘Pre-Poll’ or it needs to be disregarded altogether and anyone who wishes to use the facility should be allowed to do so to stop the current farcical situation where many voters who are ineligible still submit a ‘Pre-Poll’ vote.

7. Polling Booth Finalisation

Polling Booth locations can be changed quite close to an election. Foregoing a natural disaster, this is unacceptable for the effective management of an election campaign. We know locations may become unavailable due to changed views of the owner of the location but with fixed-date elections there should be sufficient time to arrange polling booths well in advance.

If the EC determines that a Booth should be closed due to lack of staff or better management of its resources, then this needs to be managed in a timely manner and advice given to all effected parties as quickly as possible.

Recommendation 13

The EC needs to have a register of contacts for both Political Parties and Candidates that allows it to advise Polling Booth changes in an expeditious manner. This would be by SMS and Email at least but preferably with Telephone follow-up if the change is in the fortnight prior to an election. In the case of Political Parties there should be more than 1 official contact so that this advice can be acted upon urgently.

8. Penalties for not Voting

If the State's voting system is to remain Compulsory (which we believe should be the case) then the current level of fines hardly seems to pose a reasonable incentive to vote when the number of non-voters is taken into consideration. The EC should provide information on the total numbers of voters who do not vote end up paying a fine. We imagine that the cost incurred in collecting and chasing up unpaid fines is hardly covered by the amounts actually paid

Recommendation 14

Increase the fine for not voting to \$200.

9. Posters and Signage

The current rule for posters and signs near polling booths to be restricted to a maximum of 8,000 square centimetres is easily circumvented by having several 'signs' from one party or candidate assembled/attached immediately next to each other. Individually each 'sign' may be an allowable size but when taken as a combination, far exceed the allowable limit.

Recommendation 15

Change the existing regulation so that the 8,000 square centimetre rule applies to any combination of signs from the 1 party or candidate and that there must be a distance of at least 2 metres before a subsequent combination of 'signs' from the same party/candidate can be assembled. Individual candidate 'signs' are to be considered as 'signs' from the party if the candidate is endorsed by a political party or group.

10. Party Registration Process

The current online facility provided by the EC to complete the Annual Party Registration is a great advancement. The overall process needs to be improved though in relation to ‘Relied’ members: that is a member who has previously been used as part of the registration of one political party but who has joined a different party and wishes to be used for the registration of the latter party cannot be included for the newer party until the individual writes to both the EC and to the first party and that party acknowledges that the individual is no longer to be included for its registration.

This process can take over a year and as we have just experienced, there was no acknowledgment received from the previous party but the EC ended up acting on the multiple advices given to it. This is unacceptable.

Recommendation 16

The latest Party Declaration form completed by any individual should determine the Party which can rely on that individual for registration.

11. Audit Fees

The cost of having election and party disclosures audited is not a minor consideration especially for individual candidates. Because it is not claimable, it is effectively an additional election nomination fee.

Recommendation 17

The requirement to have disclosures audited should only be required for candidates who are entitled to electoral reimbursement. Candidates who are not entitled to claim any funding would still be required to lodge all other documents with their disclosure; bank statements, invoices, advertisement copies, receipts, etc

Recommendation 18

An audit fee should be reimbursable up to certain limits:

- (1) Up to \$500 per individual candidate disclosure**
- (2) Up to \$5,000 per Political Party disclosure**

12. Travel Expenditure

Travel expenditure is reportable under the category of ‘Other Electoral Expenditure’ on disclosures. Although reportable, such amounts are not reimbursable. This is a restriction on the campaigning ability of non-sitting candidates as the sitting member has been able to effectively campaign for 4 years using his or her Member of Parliament travel entitlements. This bias towards a sitting member is obviously even greater in the larger electorates.

Recommendation 19

Travel expenditure should be claimable provided it can be justified by appropriate logs and receipts.

13. Enrolment Verification of Donors

The new donation rules for NSW require confirmation of an individual’s enrolment to vote in order to accept a donation or entry fee to a fundraising venture. This may be an easier task for a major party that has a registered party office in every state and is therefore eligible to receive a copy of the full Australian Electoral Roll to confirm enrolment. With a party such as CDP this access is not available because we do not have registered offices in every state.

Although we now require donors to confirm enrolment at the point of donation this does not always occur depending on the avenue by which the person donates. Personal follow up is therefore required and this can consume a lot of time which would not be necessary if total access to the AEC roll was available.

Recommendation 20

The State EC needs to make a facility available whereby a nominated Political Party representative can confirm electoral enrolment no matter in which state the donor or function attendee may reside or arrange with the AEC to make the Australian electoral roll fully available.

14. Permanent Residents

The new donation rules for NSW prevent permanent residents of Australia to donate to a NSW Party. These individuals although currently ineligible to vote are still very much impacted by the

laws of the State and are unable to give support to a Party that promotes their ideals and aspirations.

Recommendation 21

The new donation rules should be expanded to include permanent residents of Australia.