

Submission: — Green Paper on Electoral Reform

In the interest of (relative) brevity, I intend to make the points where I believe the present system fails, and then indicate the areas where change would correct these perceived problems, *and substantially change the system if adopted.*

Believing that a good proposition is concise, I will attempt to set principals that by their very definition minimise the areas that would be difficult to define and be subjected to much nit picking.

Generally ‘problems’ besetting politics have their origins in the party, as opposed to the politicians themselves. The ugly branch stacking and preselection brawls originate in the party. The reason that **MP**’s slavishly support the party line is because of their fear of losing preselection should they cross the floor.

Australia had one prime minister who on three occasions to my certain knowledge expressed the following: *‘I would be no use to my party or Australia if ...’*

Nobody ought to be in any Parliament *who puts party interests ahead of their constituents.* Such people are simply serving their own interests, trying to ensure their preselection, or the interests of the party. Neither their constituents nor Australia benefit.

Party politics enable parties to impose a candidate on an electorate. Then because of the power that the party wields, and the skew inherent in compulsory preferential voting, the candidate is very likely to be elected.

Repeatedly throughout the **Green Paper** much is made of the cost and/or difficulties compelling parties and their branches to meet reporting standards that would enhance transparency.

No such angst is shown when demanding that business, including small business comply with complex and onerous reporting requirements. To suggest that the various branches may not be able to keep accurate records of donations is to suggest that the **TAB** could not possibly keep track of all the individual wagers placed, a merchant accurately control his stock or a bank keep individual customer accounts — clearly ludicrous.

Given the considerable logistical exercise for political parties in Australia to prepare their disclosure returns, sometimes needing to be consolidated with hundreds of branches across the state or territory, there is a practical limit on how short reporting time periods can be for comprehensive disclosures.

The United States and the United Kingdom are able to obtain and publish returns in a timely manner because of their systems of mandatory electronic record keeping and lodgement.

I asked my accountant to explain to me the difficulties that a political organisation would face in keeping a record of all donations received and providing a regular update for publication.

Effectively his answer was,: ‘What difficulties?’

Again, **GetUp**, on occasions within hours of an event, has emails addressed by name in the hands of its members. It is apparent that those who are prepared to make use of modern technology and communications have no difficulty in overcoming what are presented as problems for political parties.

Compelling political parties to move into the 20th century could well prove revolutionary, — or perhaps terminal for some of the more ossified — but would in any event prove beneficial to Australia.

Political parties are a business. Registration of a party ought to automatically give it the status of a **corporation** and make *it subject to the same regulations and requirements pertaining to that status.*

There are a number of instances where doubts were expressed as to the possibility of getting complete compliance from the various parties.

Include in the relevant legislation the provision to strip a party of its registered party status for repeated, or any significant breach. Include an automatic link to the political branch of the party which reduces all that party’s **MP’s** to the status of an independent and so strip them of all parliamentary privileges that had accrued to them as a party.

Thereafter compliance would not be an issue.

Funding

An issue *not* addressed in the **Green Paper** is the use of *personal funds* in a campaign.

(I live in Wentworth electorate. It could be persuasively argued that Malcolm Turnbull initially bought his seat.)

The **Canadian approach** allowing donations only from citizens, and restricted adults who are on the electoral roll has a great deal to recommend it.

That it is both concise and unambiguous is greatly in its favour!

Donations ought to be limited to \$1000 per elector, per annum, *restricted to being made only to a candidate holding or running for office* within the electorate in *which the elector has their primary residence*.

Political donations ought to be restricted to the sitting member, or to aspiring candidates in an electors electorate. *Not* to political parties.

The expenditure of personal funds ought to be restricted to percentage of donations received. Ten percent would probably be appropriate if an absolute was also included.

(Even at this level a considerable advantage would accrue to those candidates able to take full advantage of it.)

All donations ought to be declared and the donor identified

Ideally there ought to be an on-line register where all those eligible to receive donations are named, party affiliation, etc, and a donation list identifying the donors which is required to be updated within 48 hours of the end of each month, immediately upon the calling of an election and updating being weekly within the period of the election.

No donations ought to be permitted within ten days of election day.

It ought to be clearly stated in the legislation that the intention is to prevent donations of any sort being made to any political party, and that any device or construct intended to bypass the legislation is therefore unlawful.

Party members would be permitted to *pay an annual membership fee*, with a maximum of not more than \$100.

It ought to be up to the **MP's** to further support the party structure financially, should they so desire, but this too ought to be capped.

It would be required to include real penalties in the legislation to prevent individuals or organisations with money paying individuals in the community to 'join' the party.

Enticements in the form of cash or benefits 'in kind' offered to individuals to become 'members' of a party ought to incur real and substantial penalties.

An effective deterrent would possibly be along the lines of fines totalling ten times the financial benefit gained, to be imposed upon the monied individual, the party and the enticed 'member', plus a mandatory jail sentence for the moneyed party.

(Those who consider this harsh ought to consider that those who take part in such practices are attempting to control, manipulate or distort the democratic process — the professed form of government in this country)

Disclosure

The principle behind disclosure of donations is that electors have the right to know where political parties get their support . . .

The wider the net cast . . . the more information available to Australians . . .

The timeliness of disclosures is a key factor . . .

The approach adopted by some countries, where political parties report donations before elections, appears more likely to influence people's approach than do those which do not disclose the information until after the relevant election.

Political party disclosures ought to be required to report/update donations received every month, with an immediate update within 24 hours of an election being called, and updated weekly until the election has been held.

No donations ought to be able to be made, nor accepted, within ten days of an election.

That is the total disclosed upon the tenth day before election day must be the same as the update given within 24 hours of the election being held.

An argument against banning donations from organisations is that different types of organisations play a variety of important roles in modern society – corporations have legitimate interests in government decisions; trade unions exist to represent the interests of their membership base; while community groups can be formed around important social or environmental issues.

Neither a corporation or an organisation can vote. Corporations advance their interests by lobbying ministers, or having their association lobby governments. The position of unions and most organisations is similar.

The membership base is free to vote as they wish, and if they cannot be persuaded to vote in support of their union or organisation's position, then there is no reason to be concerned for whatever the position held by the union or organisation.

Imposing caps or bans on private funding also raises constitutional issues. Sections 7 and 24 of the Constitution require that Senators and members of the House of Representatives be 'directly chosen by the people', and to the implied freedom of political communication derived from those and other provisions of the Constitution, identified by the High Court of Australia in a series of cases.

*. . . which involved consideration of the words '**directly chosen by the people**', Gummow, Kirby and Crennan JJ said that those words required a 'substantial reason' for denying a member of the Australian community 'a voice in the selection of ... legislators'. A 'substantial reason' was said to be a reason that is 'reasonably appropriate and adapted to serve an end which is consistent or compatible with the maintenance of the constitutionally prescribed system of representative government'.*

Any person on the electoral roll is entitled to contribute/donate to the candidate of their choice within their electorate, to the maximum allowed, and is required by law to cast a vote at any election.

That, to my untutored mind fulfils the conditions as set out : *A 'substantial reason' . . . was said to be a reason that is 'reasonably appropriate and adapted to serve an end which is consistent or compatible with the maintenance of the constitutionally prescribed system of representative government'.*

It cannot be said to be democratic, or a democracy, if the mere possession of wealth or indeed 'position' confers upon the holder a greater say in who is elected than the lowliest serf enjoys.

The fact is that setting the annual limit per elector at \$1000 in fact is discriminatory. The majority of families, the unemployed and most pensioners could not afford to donate \$100 per year, even if they were so inclined

Banning donations arguably carries risks. Removing a significant part of parties' ongoing funding could seriously impair parties' operations between election periods unless the public funding system was also overhauled to provide ongoing . . .

This assumes that 'parties' have some religious-like status and have a right to some sort of life support. I reject this completely. A political party only has reason to exist if it can attract members enough to support it. Where this is not the case, like any other business it deserves to cease to exist.

Third parties

This is a vexed question, and I do not pretend to have any complete answer.

As an example, **Gunns** in their battle for their pulp mill have expended tens, or is it hundreds of thousands (millions?) of dollars on promoting the proposed mill. Include the cost of access for lobbying to government and it is clear that 'community groups' cannot possibly compete on any comparable scale.

A further example. **GetUp**, I am given to understand has over 300,000 members. They therefore have the potential to raise substantial amounts of money. They also have access to (most?) ministers.

(Perhaps there is a lesson here for the political parties: if they were to act in support of members concerns and interests, they may well be able to increase their membership to a point where money was no longer an issue.

Certainly no political party has anything like this number of members.

It would be interesting to see what support any of them could garner if compulsory preferential voting was abolished. Or even if the requirement that all boxes be ticked was rescinded.)

Individuals or organisations wishing to promote a political agenda within six months of an election — fixed terms would greatly simplify matters here — must have an initial restriction on the total expenditure allowed.

Any expenditure beyond that level ought to trigger a requirement to hand over an equivalent amount to that spent to the **Electoral Office**, in order that less well funded groups opposing the position being promoted may apply for funds to run a counter argument.

While this could be a little messy, with clear guide lines set and perhaps an independent, bipartisan panel to evaluate the proposed rebuttal the proposal could be made to be workable.

(If we are to be a democracy, it ought not be case that those with the most money can shout the loudest.)

How to define?

Overseas experience indicates that where parties' spending is restrained, similar restraints must be imposed on other participants in the political process, or funding could divert to other avenues. This raises definitional issues – what spending by a corporation, union, interest group, or other organisation should be defined as election spending'?

All paid media time or space including but not restricted to, advertisements, statements, open letters, intended, or likely to influence people's position in relation to a matter that will be decided upon by politicians or the political process.

None of the above ought be run, displayed or aired from one minute after an election is declared.

This leaves letters to the editor, letter boxing and on line forums untouched. It also raises the issue of organisations such as **GetUp**. It is difficult to imagine any funding restrictions affecting them in any way. Their costs for coverage must be far below any threshold that I have suggested.

There is also the question of whether an organisation that is community based and driven can, or ought to be lumped in with wealthy individuals, companies or corporations or even unions, all of which represent a narrow self-interest, or at best a limited sectional view.

It may be that a definition could be devised that covered only organisations open to all who wish to join, are community based and driven, that obtain all of their funding from members donations, and where individual campaigns are funded from specifically targeted appeals.

Difficult to get more democratic than that!

Offences in force during an Election

As many of those seeking to gain ‘power’ are driven, and very likely to be risktakers, it requires that bending, ignoring or otherwise flouting the laws and regulations pertaining to the election process be presented and enforced in a manner that removes noncompliance from a position of ‘risk’ to an absolute certainty of immediate prosecution and a real and immediate penalty if convicted.

All offences triggered by the calling of an election would need to be in a special category whereby either a panel — see **media** — adjudicated within 24 hours, with no provision for appeal, or alleged offenders were immediately brought before a judge where judgement had to be made immediately — within 24 hours — the penalties fixed, you were responsible for this action, or lack of action, you go inside.

Where candidates are involved their candidacy ought to be immediately terminated, and all those convicted ought to be automatically debarred from any position in any political party for ten or twenty years.

Media

While the media collectively is unquestionably of a 'to make a profit' enterprise, a case can be made for the fact that they have a privileged position and that over and above the social responsibilities required of any good corporate citizen they have a wider obligation to the community.

In the run up to an election, it would not be unreasonable to require all media to make time available to all parties, and to all independents with a reasonable prospect of winning, or ought that be a reasonable prospect of garnering 20 percent of the vote in their electorate?

The **ABC's Q&A** would be a good template for both **TV** and **radio** to provide discussion of issues that seemed to be engaging the community.

This would not necessarily require that politicians were on the panel, but that all viewpoints were represented by people competent to explain their viewpoint.

For the run up period all media could be required to provide equal coverage — equal in timeslot/space/page/ equal in quality, with an independent panel empowered to access that this was being adhered to.

This ought to apply especially to **talk-back radio**. Whether such a show attracts bright pink greenies or marooned skin red necks I can think of no segment of the population that would be better served by exposing them to well explained alternatives!

Fixed terms

While this is not identified as part of the discussion paper, it is difficult to address funding while ignoring it completely.

Four years is far too long to leave any administration without review. The difficulty is that for some administrations four weeks is too long!

Three years is not ideal, but probably as acceptable as it is possible to arrive at.

Governments — all governments run electoral advertising on the public purse.

To restrain a government planning to call an early election from the temptation to indulge in a spate of pre-election advertising, a provision that the cost, or value, of all such advertising in the six months preceding an election must be transferred to the party's total advertising expenditure, be recovered from the party, and so included in whatever the limit is that they are permitted to spend.

There is no good reason that the advantages accruing to the incumbents over the competing parties ought not be reduced or negated by every means possible.

Without doubt fixed terms go a long way toward this objective.

The cost of campaigns

The modern phenomenon of permanent campaigning is expensive and increasingly so. Media advertising remains a major cost, and the major political parties' expenditure on campaigning, principally through advertising, is increasing at rates far in excess of inflation.

The magnitude of campaign expenditure and the rising costs of campaigns place considerable pressures on the resources of political parties.

This is an issue entirely within the province of the parties themselves to address. Like any other entity they have the responsibility to live within their means, show some initiative by cutting costs, improving the return for each dollar spent and changing the manner in which they conduct their business.

Intelligent use of the web would be one option. Addressing the interests and needs of the community would engender more interest, attract more members and so more income.

There is no reason whatever that political parties ought to be a 'protected species', or have any claim upon any the public purse in beyond that of any other business. If their product or services do not meet the interests of enough people to survive without handouts, then there is no good reason that they should survive.

Again I draw your attention to the success of **GetUp**, that proves conclusively that an organisation adequately addressing peoples political and social concerns can attract a huge membership.

Funding the candidate

To stand, a potential candidate ought to not only be required to prove the support of X number of electors, but also to illustrate that that percentage of electors have each contributed not less than \$100 to the campaign fund.

No doubt without party support most party candidates will have substantially less funds to support their campaigns. This ought to be seen as a positive result in that it evens up the contest to the advantage of the smaller parties and the independents. These funding restriction could be expected to elevate the use of a well designed web site and to compel candidates to get out attending meetings, door knocking, soap boxing on street corners and in parks. Face to face with their constituents they will have to know what they are talking about, as opposed to when interviewed, expressing support for the party line. This is a very different proposition to taking a walk through a shopping centre, with 'minders' in attendance. Though I wonder how many of the present lot would survive in the rough and tumble of such unmediated sessions.

With **MP's** answering directly to their constituents, as opposed to being protected by the party structure, it could be expected that they would show far more independence and be more inclined to vote in the interests of their constituents than is the case at present.

If candidates have to get out and persuade people to put their hand in their pockets, kissing baby, mumbling that they support the party policy, or standing on a corner and shaking a tin will not cut it.