



Submission to Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 by Economics and Governance Committee

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Introduction

This submission is on behalf of the Australian Institute for Progress. We are an Australian think tank based in Queensland and over a number of years we have taken an interest in political donations and funding of political parties and campaigns.

We have extreme concerns about this bill. While it purports to fix a problem of money unduly influencing politics, there is no proof that this is actually a problem, and the mechanism that the bill adopts will actually make it easier for money to influence politics and unduly favours the current government. There are also possible complications for representative organisations who participate in political debate.

Is there a money problem in Queensland politics?

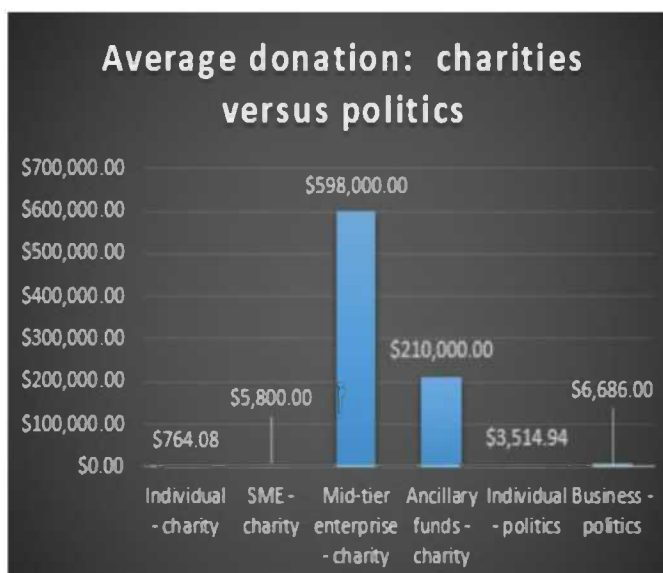
The CCC report on Operation Belcarra makes the assertion that there is a money problem in Queensland politics without offering any proof other than that there is a public “perception” that there is. However, the prosecutions that have occurred as a result of the operation have all been for corruption where funds have been provided outside the donations framework. These payments were illegal when they were made, and nothing will change under this legislation, meaning that, on what objective evidence we have, this legislation will have no impact on corruption in Queensland politics.

When we analyse donations made to political parties they are of a moderate size and unlikely to influence government decisions.

By moderate, we mean in line with the size of donations made to charities.

In our analysisⁱ of donations in the period 2016-2017 we presented the chart below which shows the quantum of money given by individuals and corporate entities to charity versus that given to political parties. While individuals were more generous to political parties, businesses were much less.

DONOR TYPE	AMOUNT
INDIVIDUAL - CHARITY	\$764.08
SME - CHARITY	\$5,800.00
MID-TIER ENTERPRISE - CHARITY	\$598,000.00
CORPORATION - CHARITY	\$5,000,000.00
ANCILLARY FUNDS - CHARITY	\$210,000.00
INDIVIDUAL - POLITICS	\$3,514.94
BUSINESS - POLITICS	\$6,686.00



Our more recent researchⁱⁱ on donations to political parties in Queensland between October 2018 and October 2019 shows similarly modest sums are still being donated.

	Total raised	Average per donor	Number of donors
LNP	\$ 5,598,029.14	\$ 5,075.55	1100
ALP	\$ 3,204,726.01	\$ 11,166.29	287
Queensland Greens	\$ 392,557.04	\$ 4,512.15	87
Katter's Australian Party (KAP)	\$ 217,134.96	\$ 9,047.29	24
Pauline Hanson's One Nation Queensland Division	\$ 137,200.00	\$ 4,731.03	29
Total	\$ 9,549,647.15	\$ 6,253.86	1527

The largest average donations are received by Labor and the KAP. The reason for the size of the ALP contributions is that they are mostly from various trade unions.

If there is a money problem in Queensland politics, it is that trade unions have too much sway over the Labor Party. The electoral returns show cash contributions, but rarely show in-kind, so we can't quantify the totality of the union contribution to Labor, but there is abundant anecdotal evidence of unionists being paid and bussed around to operate in various key electorates during election campaigns, as well as warehousing candidates so they can campaign for the next election on a salary, and generally running "independent", but aligned public relations and issues campaigns beneficial to the Labor Party.

There is a common misbelief that big business, in particular mining interests, are influential through donating to political parties in Queensland, however there is no evidence of this whatsoever as the following table from the Spending Cap article demonstrates. Outside the energy sector, miners are almost completely absent, and much of the expenditure in the energy sector is by power companies.

Source	ALP	KAP	LNP	PrON	Greens	Total
Private	\$ 309,213.74	\$ 135,884.96	\$ 2,013,042.85	\$ 47,200.00	\$ 271,057.04	\$ 2,776,398.59
Union	\$ 1,654,644.59	\$ 20,000.00				\$ 1,674,644.59
Industry Association	\$ 228,234.00	\$ 43,250.00	\$ 254,294.80	\$ 29,000.00		\$ 554,778.80
Agriculture	\$ 5,000.00	\$ 8,950.00	\$ 341,040.00			\$ 354,990.00
Energy	\$ 132,947.00		\$ 212,545.00			\$ 345,492.00
Construction	\$ 19,687.00		\$ 312,491.25			\$ 332,178.25
Related Entity	\$ 75,515.70		\$ 180,563.64		\$ 121,500.00	\$ 377,579.34
IT	\$ 36,557.86		\$ 251,585.00			\$ 288,142.86
Lobbyist	\$ 128,986.41		\$ 67,480.00	\$ 30,000.00		\$ 226,466.41
Finance and insurance	\$ 89,169.00		\$ 115,460.00			\$ 204,629.00

So this legislation purports to fix a problem that does not exist.

Problems with the bill

The bill has a number of problems.

- It shifts responsibility from political parties to the public purse for direct funding
- It arbitrarily limits individual and corporate giving to a ludicrously small amount.
- It decreases transparency by increasing the tendency to third party campaigning
- It advantages those political entities that are not reliant on donations
- It massively slants financial advantage to the ALP

Public funding

Currently political parties receive some public funding, but the majority of their campaign expenditure comes from donors. This is a valuable mechanism in ensuring that they are connected with their communities and supporters.

The public funding will ensure that candidates in both safe and unwinnable seats will essentially have their campaigns funded for them, whether their publics think they are worth supporting financially or not.

This is bad for the political parties, and also for the taxpayer who is forced to subsidise not only successful politicians, but unsuccessful ones as well.

It also gives the existing political parties a free-ride. Based on the last election, the ALP would receive \$5,747,340 of public money, and be effectively limited to raising (because of the spending cap) a further \$2,818,660. For the LNP the numbers are \$5,466,114 and \$3,099,886. In just the last 12 months both of the majors have raised more than they can spend under the cap, but under the new bill they have 4 years to raise it.

Limits donations to small amounts

The maximum amount that a donor can give a political party or registered organisation is \$4,000 over a period of 4 years, or \$6,000 over the same period to a candidate. For a regular donor this is the equivalent of \$20 to \$30 a week – there are pensioners put more than this into the plate at their local church each week.

Under the legislation this is not a problem for political parties – because the taxpayer will be stumping-up – but it could be a problem for some NGOs and community organisations who might get involved in an election campaign in their own right. For example if Greenpeace wants to spend more than \$1,000 in the next Queensland election, on our reading of the bill it might not be able to take donations of more than \$4,000 in the previous four years from any one person.

Decreases transparency

Because of the ability of political parties to raise more than the cap, and the drive to outspend their opponents, it is likely that some of those donations will be directed to third parties. These third parties – NGOs, unions etc – will then fight undeclared proxy wars on behalf of their political party sponsors. As pointed-out above, the ALP and LNP have raised in 12 months more than they would be able to spend in an election, so the potential surplus over 48 months would be massive. The legislation specifically envisages third party campaigning happening, so effectively legitimises and encourages it.

Advantages those not dependent on donations

In the last federal election Clive Palmer spent tens of millions on his own campaign out of his own money. While this legislation would stop Mr Palmer spending the same amount of money, because it would be capped, it does not appear to stop him effectively raising it from himself. So rich candidates and members get an advantage under this legislation.

Another group that gets an advantage is trade unions. They are reliant on fee income taken as dues from their members. As the Trade Union Royal Commission also showed, they also provide various commercial services to businesses for which they are paid a fee. They are also tax-advantaged in that union dues are tax-deductible, whereas donations to political parties are not.

Financial advantage to ALP

The last election to be fought in Queensland under a spending cap was the Redcliffe by-election. During that election the ALP and the LNP spent the same amount of money, but the LNP were outspent seven to one by their opponents because 6 trade unions and other entities spent the same amount of money supporting Labor as the major parties, giving Labor a 7:1 advantage. The successful Labor candidate is the current Attorney-General.

In an election, generally speaking only a small number of seats are at play, and political parties direct most of their on-the-ground activity into those seats. So in practice, the union movement would not need to raise \$1,000,000 each (the total spending cap for third parties) to have a disproportionate effect on an election. If 6 of them directed the maximum \$87,000 into a single electorate there would be a budget of \$522,000 plus \$92,000 from the party and \$58,000 from the candidate – a total of \$672,000. A candidate without the third party support would only be able to spend \$150,000.

9 seats could change the government in Queensland at the next election. Simple economics suggests that unions will stop donating to the ALP and keep the funds they would have donated to run campaigns in say 10 to 15 seats.

In the last federal election we saw targeted campaigns against a number of sitting Liberal members, in seats such as Warringah, Higgins, Kooyong, and Dickson which yielded big swings, and one former-prime ministerial scalp, partly as a result of the size of the spend, and third party campaigns. Third party campaigners like GetUp, were very active in these seats, but at least the members being threatened could raise as much money as they could. This legislation would not allow that to happen. They would need to get into the business of finding, or creating, third party organisations themselves.

Other matters

Vagueness of the meaning of “electoral expenditure”

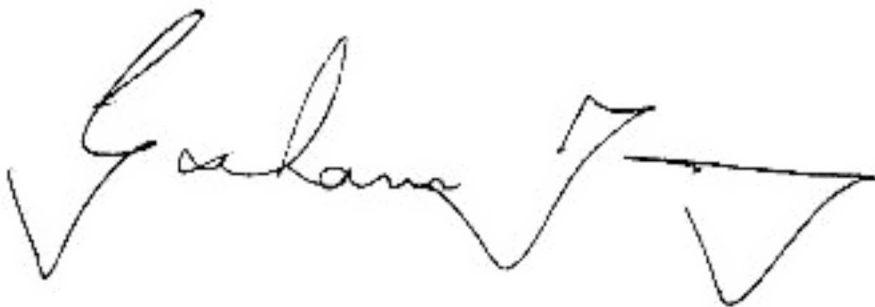
The definition of “electoral expenditure” in the bill as it affects third parties seems excessively broad and although it is modified by a “dominant purpose” test would leave many organisations who take positions in the public debate in an ambiguous position. Does a union campaign against the government count as “electoral expenditure”? What about an environmental group? Or a community group? They could easily be pulled within the scope of the legislation and subjected to severe and effectively retrospective penalties, including having to hand back donations they have already spent, merely by themselves spending \$1,000.

Length of capped expenditure period

The capped expenditure period runs for one year. Coupled with the issue in the previous paragraph the bill could have the effect of muting the voices of civil society for the 12 months running up to an election. It is difficult to see how this could be in the interests of democracy.

Change of definition of “electoral expenditure” with respect to prohibited donors

This definition has been changed, but there is no explanation for it that we can find. The lack of explanation is puzzling. The need for the change should be explained.

A handwritten signature in black ink, appearing to read 'Graham Young', with a stylized flourish at the end.

Graham Young
Executive Director

ⁱ p13 “Donations to Queensland Political Parties 2016-2017” https://aip.asn.au/wp-content/uploads/2017/11/Donations_Queensland_Political_Parties_2016_2017_V2.0.pdf

ii “Spending cap leaves Labor sitting pretty” published in edited form in the *Courier Mail* on November 5, 2019, and downloadable from <https://aip.asn.au/2019/11/spending-cap-leaves-labor-sitting-pretty/>