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The Secretary
Government Administration Committee B
Inquiry into the Electoral Disclosure and Funding Amendment Bill 2024 (No. 9)
Parliament House
HOBART TAS 7000
Via: assemblygab@parliament.tas.gov.au

To whom it may concern,

Thank you for the opportunity to make a representation in relation to the Inquiry into the Greens' *Electoral Disclosure and Funding Amendment Bill 2024*.

For far too long big corporations have been put ahead of this island and its people. This inevitable interference with our democracy is aided in large part by political donations. This is why the Greens have long campaigned for electoral reform.

We approached the debate on this Bill in a spirit of collaboration, in the interests of Tasmania's democracy. Our representations to this Committee's Inquiry will be in the same spirit.

The Bill contained amendments that had been openly discussed, publicised and circulated. It contained Clauses we moved during debate on the Government's Electoral Reform Bill in November 2023.

Donation Caps

Political donation caps are unfortunately an area most of the country is lagging on. Only Victoria, New South Wales, and Queensland have donation caps.

Of these jurisdictions, only Victoria has a particularly restrictive cap, at \$4,160 per term. Queensland is more generous at \$10,000, and New South Wales has the very high cap of \$26,400.

Nonetheless, the Victorian cap demonstrates that a \$1,000 per year cap won't cause the sky to fall in, and the rest of the country's recalcitrance on this issue is no excuse for Tasmania to not act.

The relevance of the sum of money donated is well-summarised by the comments of an anonymous politician in a 2018 study, *“If someone donates \$1000, they support you. If they donate \$100,000, they’ve bought you.”*¹

That said, the influence of smaller donations should not be discounted, as they can contribute to long-term relationship building² that influences policy in more subtle ways.

In 2018, a former Liberal Party Treasurer, Michael Yabsley, described habitual ‘soft corruption’ in the donations’ process – where donations are tied to a commitment to meet with particular ministers or political leaders.³ Yabsley called for a donations cap of \$500.

The Senate Committee recognised any donations cap is relatively arbitrary, and on balance have recommended a donation cap of \$3,000 per term per donor.⁴

Regulations to cap donations should have two broad objectives; to decrease the potential influence of a donor by limiting the size of donations, and to reduce the imbalance of a person or corporation’s ability to support political preferences based on wealth.

A \$3,000 cap on donations in Tasmania would curtail the potential influence of any given donor, particularly as no cap currently exists. It also represents 0.375% of an \$800,000 expenditure cap. A \$3,000 cap would mean that risking the loss of revenue from a single donor would be more palatable for political parties.

The average amount Australians donated to charity in 2017-18 was \$764.⁵ This equates to \$3,056 over a four-year term – close to the \$3,000 donations cap proposed by the Senate Committee. While this does not perfectly level the playing field, it is a strong step towards limiting the unfair influence that comes with having higher income.

One of the issues with large political donations is that it disproportionately gives influence to those with more wealth.

This data shows that the \$1,000 per year cap would bring maximum allowable donations down to the same level that is spent on average by people on issues that matter to them.

In essence, this confirms \$1,000 per year is a reasonable cap for the purposes of levelling the playing field.

¹ Kypros, J McCambridge, N Robertson, F Martino, M Daube, P Adams, and P Miller, [“If someone donates \\$1000, they support you. If they donate \\$100,000, they’ve bought you.” Mixed methods study of tobacco, alcohol and gambling industry donations to Australian political parties](#), Drug and Alcohol Review, Vol. 38, 2018.

² Ibid, p. 17.

³ S Dingle and D Lewis, [Liberal Party statesman calls for political donations reform as report highlights millions gifted anonymously](#), ABC News, Oct 2018.

⁴ Senate Committee into the Political Influence of Donations, [Senate Committee into the Political Influence of Donations: Final Report](#), Chapter 6 Safeguarding integrity, Parliament of Australia, 2018.

⁵ Philanthropy Australia, [Giving in Australia: the fast facts](#), Sep 2020.

Donation Cap Exemption for Contributing to own Campaign

Our bill provides an exemption for candidates and incumbent representatives making a contribution to their own campaign.

An argument has been made from some quarters that this provides an unfair advantage to wealthier candidates.

Our position is that *expenditure limits* are the appropriate tool to limit the influence of disproportionate wealth, whereas *donation caps* are principally a tool to limit the *influence* of donors.

Fundamentally, a person cannot influence themselves by paying for their campaign expenses.

Our view is that the opposite is true, and in a framework that includes expenditure limits the more a candidate contributes to their own campaign, the less they need to rely on political donations.

As such we strongly support the retention of these exemptions in our bill as drafted.

Eligibility to Make Political Donations

This bill introduces a new division dealing with donations from anyone other than natural persons who are not citizens or permanent residents

Various jurisdictions in Australia have banned donations from foreign actors, property, tobacco and gambling industries.

The Greens' preferred approach is the Canadian donation laws. These allow only 'natural persons' who are citizens or permanent residents to donate to political parties.

The Greens, however, recognise that there is not support in the House of Assembly for this measure. We are comfortable considering amendments containing alternative measures such as banning donations from tobacco, liquor, gaming and property interests.

Real-Time Donation Disclosure

Our bill would introduce a proper real-time disclosure framework, modelled on the framework in Queensland. Our bill provides for a blanket requirement for donation disclosure 7 business days after receipt, and within 24 hours during the 7 days before election polling day.

Some of the feedback we have received, from Members of the House of Assembly in particular, is that they consider 7 days outside of the election campaign period to be too onerous.

We are strongly of the view that our provisions *during* the election campaign should remain as they stand, but are comfortable compromising on the timeframes outside of an election period.

The timeframe of one month has been proposed to us by several persons. We are comfortable that one month, outside of an election period, still provides a good level of transparency and would be comfortable with such an amendment.

Donation disclosure threshold

Our bill lowers the donation disclosure threshold from \$5 000 to \$1 000.

A considerable number of submissions to the Government's draft bill, including from the Integrity Commission, Tasmanian Election Inquiry Ltd., Human Rights Law Centre, Australian Conservation Foundation, The Australia Institute (Tasmania), and a campaign email sent by an undisclosed number of people, advocated for a \$1 000 threshold.

New South Wales, Queensland, and the ACT have a threshold of \$1,000. Victoria has a threshold just \$40 higher at \$1,040.

The Northern Territory has a threshold of \$1,500, Western Australia sits at \$2,500. South Australia is the only Australian jurisdiction to have a similar threshold to that proposed, at \$5,000 subject to indexation.

Electoral expenditure caps

This bill also introduces expenditure limits for candidates, parties and third-party campaigners in respect of Assembly elections.

Most jurisdictions impose a cap on spending for independent candidates, and a cap on parties (a dollar amount multiplied by the number of electorates the party has endorsed candidates within). This cap can often be distributed across electorates, in excess of a candidate's electorate cap.

Tasmania and Victoria are the only Australian sub-national jurisdictions without expenditure caps for lower house elections. Federal elections also do not have expenditure caps.

In 2013, the *Electoral Amendment (Electoral Expenditure and Political Donations) Bill 2013* passed the Tasmanian House of Assembly, but stalled at the first reading stage in the Legislative Council.⁶ The Bill would have imposed expenditure caps of \$75,000 for candidates and \$750,000 for a party, increasing by \$1,000 and \$10,000 each year respectively.⁷

Feedback we received on these provisions was largely supportive of the balance struck between Party expenditure and independent expenditure limits.

One of the questions that was raised was whether or not our bill took into account the restoration of the Assembly and consequent expanded field of candidates fielded by political parties.

⁶ Parliament of Tasmania, [Electoral Amendment \(Electoral Expenditure and Political Donations\) Bill 2013](#), 2013 Bills.

⁷ Parliament of Tasmania, [Electoral Amendment \(Electoral Expenditure and Political Donations\) Bill 2013](#).

This development has not influenced the provisions in our bill. We are, however, receptive to amendments that reflect this – insofar as they retain an appropriate balance between party and independent candidate expenditure limits.

Truth in Political Advertising

Truth in political advertising laws are provisions which prohibit false statements in political advertising during election campaigns. These laws can establish offences or allow for the removal of statements.

South Australia was the first jurisdiction in Australia to introduce truth in political advertising laws in 1985 (with the exception of Commonwealth laws which were passed in 1983 but repealed a year later).⁸

The South Australian provisions, which ban a ‘*statement purporting to be a statement of fact that is inaccurate and misleading to a material extent*’, were found to be the strongest example of such a law by a 2019 United Kingdom analysis.⁹

Despite some issues with the legislation, the assessment found the laws to be reliable, workable and fair.¹⁰ On this basis our provisions have been drafted with reference to the South Australian model.

The Australia Institute has proposed an alternative provision modelled on the ACT legislation. While we have no concerns with the provisions in our draft bill, we are comfortable with the model proposed by the Australia Institute.

We also note that the bill, as currently drafted, piggybacks on amendment provisions in the *Electoral Disclosure and Funding Act 2024*.

Our truth in political advertising provisions insert themselves in Section 15 of the *Electoral Disclosure and Funding Act 2024*. Section 15 amends the *Electoral Act 2024* on the commencement of the *Electoral Disclosure and Funding Act 2024*.

The delaying of this bill through the Committee process will mean this avenue may no longer be available, as the *Electoral Disclosure and Funding Act 2024* may commence before the *Electoral Disclosure and Funding Amendment Bill 2024*, triggering the section 15 amendments before the truth in political advertising provisions can be incorporated into section 15.

This will mean consequential amendments will be required to have the *Electoral Disclosure and Funding Amendment Bill 2024* directly amend the *Electoral Act 2024* instead of section 15 of the *Electoral Disclosure and Funding Act 2024*.

⁸ G Williams, [Truth in Political Advertising Legislation in Australia](#), Law and Bills Digest Group, Parliamentary Library, Parliament of Australia.

⁹ A Renwick and M Palese, [Doing Democracy Better: How Can Information and Discourse in Election and Referendum Campaigns in the UK Be Improved?](#), University College London, The Constitution Unit, 2019, p. 22.

¹⁰ *Ibid*, p.p. 38-39.

Third Party Campaigners

Our bill did not intend to alter the foundational framework of third party regulation. We acknowledge, however, our bill does impose additional and altered requirements for third parties, as it does for candidates and parties – to increase transparency and accountability.

We are receptive to amendments to this framework being proposed and will consider all proposals put forward to the Committee.

Definition of Gift

There have also been propositions to expand the scope of *gifts and gifts in kind*. Again, our bill only alters this definition insofar as it is relevant to our alteration of donation disclosure thresholds.

It has been suggested to us that the definition of gift needs to be expanded to include membership fees or levies, ticket prices other contributions raised through fundraising events.

We are of the view that such matters are already captured. The meaning of *gift* is quite broad, to include any disposition of property (the definition of which includes money) that is provided with either no, or inadequate, transactional recompense.

Fundraising contributions are only excluded up to a value of \$200. While party membership fees are also excluded, these are defined to be of a value *below* the disclosure threshold (in the case of the Act, \$5,000, and in the case of our bill \$1,000). This means that membership fees more than the disclosure threshold are not membership fees for the purposes of the Act, and therefore not captured by the exemption.

We therefore remain to be convinced that the definition of gift does not already capture these matters.

Conclusion

To ensure lutruwita/Tasmania has a healthy and robust democracy with representation that works in the public interest, we need transparency and accountability in our electoral laws.

In a democracy, all elected members have a responsibility to act to demonstrate ethical conduct, strengthen democratic institutions and to build public trust. The evidence is clear – Tasmania’s electoral laws are weak and in need of reform. This Parliament has an opportunity to act and we believe Tasmanians want to see us, collectively, clean up politics.

Our Bill improves the legislation passed through parliament in the last term, and puts this island and its people first, ahead of wealthy political donors.

We look forward to presenting to the Committee when it takes evidence on the *Electoral Disclosure and Funding Amendment Bill 2024*.

Yours sincerely,



Dr Rosalie Woodruff MP

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