

Liberal Democrats launch legal challenge to Australia's anti-democratic electoral laws

Mike Head
8 October 2021

One of Australia's far-right parties—the “libertarian” Liberal Democrats—has filed documents for a High Court challenge against the new electoral laws that force parties to seek permission to use any words in their name that are already used by existing parties.

The law suit highlights the blatantly anti-democratic nature of the “party registration integrity” legislation, which seeks to prop up the major capitalist parties by giving them a veto—a political monopoly—over the use of common political names, such as “liberal,” “labor” and “green.”

The Socialist Equality Party (SEP) completely opposes the reactionary, anti-lockdown policies of the Liberal Democrats, which dovetail with the deadly corporate demand for governments to force the population to “live with” COVID-19, but the High Court challenge is based on elementary democratic principles.

On the phony pretext of avoiding unproven voter “confusion” over party names, the Labor Party joined the Liberal-National Coalition in rushing the electoral bills through parliament in late August. These laws actually aim to keep voters in the dark about the political identities and programs of election candidates, especially those who present any kind of alternative to the parliamentary establishment.

This is no accident. There is mounting discontent and plunging support for the main parties because of the worsening pandemic let loose by the corporate profit-driven policies of the political establishment, soaring social inequality and the rising danger of a US-instigated war against China.

The legislation hands to the electoral authorities of the capitalist state the power to determine which parties can use historic political names, including “socialist.” It also threatens to de-register all parties not currently

represented in parliament, such as the SEP, unless they submit the details of 1,500 members—tripling the previous requirement—by December 2.

That would mean that their party names cannot appear on ballot papers alongside the names of their candidates, preventing voters from making informed choices.

The Liberal Democrats' case states that the party names veto powers violate the freedom of political communication that the High Court has previously ruled is implied by the 1901 Australian Constitution. This weak and limited “implied freedom” can be overridden by legislation that supposedly pursues a “legitimate” purpose.

As their excuse, Labor and the Coalition claim that voters would mistakenly take parties with names containing the words “liberal” or “labor” to be the Labor Party or the Liberal Party. Yet such parties have existed for years, including the Democratic Labour Party and the Liberal Democrats, which has been registered for two decades.

In fact, the party name provisions specifically overturn a long line of rulings by the Australian Electoral Commission (AEC) and the Administrative Appeals Tribunal (AAT) that no “reasonable person” would be likely to be confused by such names and that no party had the right to “own” commonly-used political labels.

These rulings date back to 2001, when the AAT, the peak federal tribunal, decided that the AEC had wrongly refused a party registration application by the “liberals for forests” because the name was too similar to the Liberal Party.

In that case, regarded as a landmark for 20 years, the tribunal ruled that no political party could claim the exclusive right to “lock up” as “the property of any

organisation,” generic words such as “Australia,” “liberal,” “labour,” “democrat” and “national,” when it came to names that could be used on ballot papers.

The Liberal Democrats won a similar case against the Liberal Party in 2013, as did another split off, the New Liberals, in June this year. In the New Liberals case, the AEC rejected the Liberal Party’s claim that the name would cause “widespread voter confusion.”

The AEC ruled that the name New Liberals was “sufficiently visually and aurally distinct from the Liberal Party.” As a result, “it is not likely that a voter will be confused or mistaken about which name is associated with which party.”

In a naked bid to reverse these rulings, the suddenly amended legislation now prohibits the AEC from registering a party—even if it supplies the names and details of 1,500 members—if its name contains any word that is even part of the name of an earlier registered party, unless it first obtains the “written consent” of that other party.

The new laws go even further. They allow a registered political party to object to another party’s name, at any time, regardless of the party’s date of registration, thus opening the way for challenges after a party has been registered.

In a display of staggering hypocrisy, the only exemption to proscription is the word “democratic”—along with “function” words like “the,” collective nouns such as “party” and the name of country, like “Australia.”

According to the legislation’s official explanatory memorandum, “democratic” is treated as a “unique” exception, because of “widespread historical use” and “the intrinsic function of all Australian political organisations.”

Under the banner of “democracy,” Labor and the Coalition are tearing up basic democratic rights.

Without party registration, candidates have to nominate without any party name, or as unexplained “independents.” This denies the elementary right of parties to stand candidates in order to campaign across the country for their political programs, as well as the essential right of electors to know the policies of candidates.

In a statement issued on September 11, the Socialist Equality Party made clear that it would not seek to veto the use of the word “socialist” in party names, and

called on other parties identifying themselves as socialist to publicly declare likewise.

“As a matter of fundamental political principle, the SEP objects in the strongest manner to handing to any capitalist state agency, including the Australian Electoral Commission (AEC), the power to determine which parties have the basic democratic right to use widely-known and historically significant names, such as socialist and communist,” it stated.

The SEP has launched a campaign to demand the repeal of these laws and all restrictions on the democratic right of parties and individuals to stand in elections. At the same time, we appeal to all our supporters and readers: Become an electoral member of the SEP to help us retain our registration, defeat this attack on democratic rights and take forward the fight for a truly democratic, that is, socialist, alternative.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact