



PARLIAMENT OF NEW SOUTH WALES

# Joint Standing Committee on Electoral Matters

REPORT 1/55 – NOVEMBER 2012

## INQUIRY INTO ADMINISTRATIVE FUNDING FOR MINOR PARTIES



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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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# Membership

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# Terms of Reference

- 1.1 The Committee passed a resolution on 13 June 2012 to conduct an inquiry into administrative funding for minor parties:

The Joint Standing Committee on Electoral Matters is to inquire into and report upon matters relating to the administrative funding for minor parties and specifically the annual amount to be distributed from the Administration Fund to eligible minor parties.

- 1.2 This followed a letter from the Premier dated 30 May 2012 to the Chair of the Committee referring to the Committee for inquiry matters relating to the administrative funding of smaller parties.

## Chair's Foreword

During the 55<sup>th</sup> Parliament, the Government has introduced a number of reforms. One such reform saw the introduction of the *Election Funding, Expenditure and Disclosures Amendment Act 2012* which amended the *Election Funding, Expenditure and Disclosures Act 1981* ('the Act') to prevent political donations from sources other than individuals, including corporations, industrial organisations, peak industry groups, religious institutions and community organisations.

The Committee has taken evidence concerning the onerous impact the 2011 amendments have had on minor parties in New South Wales. The Committee has also heard evidence about the associated administrative impact the reforms have had those minor parties.

The Administration Fund is managed by section 97E of the Act. The purpose of the Fund is to ameliorate the impact of reforms, such as the changes that followed the implementation of the 2012 amendments to the Act on eligible parties in New South Wales. The Administration Fund provides funding to parties in circumstances where those parties would attract fewer political donations but still require funds to operate.

The purpose of this Inquiry has been to ascertain whether the annual amount distributed from the Administration Fund to eligible minor parties remains appropriate.

It was never the intention of the *Election Funding, Expenditure and Disclosures Amendment Act 2012* to have an adverse impact on minor parties in New South Wales. In this Report, the Committee has recommended that the amount to be distributed from the Administration Fund be increased as outlined in recommendation 4 of this Report.

The Committee understands that such increases in the amount distributed from the Administration Fund will go some way to alleviate the additional burden that minor parties in New South Wales have experienced as a result of the 2012 amendments to the *Election Funding, Expenditure and Disclosures Amendment Act*.

As the new Chair of this Committee, I would like to thank the previous Chair – the Hon. Trevor Khan MLC – for his stewardship of the Committee and the other Members of the Committee, namely: the Hon. Robert Borsak MLC; Mr Gareth Ward MP; Mr Andrew Fraser MP; the Hon. Dr Peter Phelps MLC; the Hon. Peter Primrose MLC; the Hon. Amanda Fazio MLC; the Hon. Paul Lynch MP and Mr Daryl Maguire MP for their diligence in the work of this Inquiry and the preparation of the Report. I would also like to thank the Secretariat for their assistance in the conduct of the Inquiry and the production of this Report.

This Committee recognises the value of diversity in the political landscape and I trust that the work that the Committee has done during this Inquiry will go some way to ensure that such diversity is protected.

**Mr Jai Rowell MP**  
Chair

# List of Findings and Recommendations

## RECOMMENDATION 1 \_\_\_\_\_ 6

The Committee recommends that, should a funding model be introduced with respect to 'minor parties', that the term 'minor party' be defined.

## RECOMMENDATION 2 \_\_\_\_\_ 9

The Committee recommends that ongoing access to the Administration Fund should be maintained to ensure the strength of the democratic process in New South Wales.

## RECOMMENDATION 3 \_\_\_\_\_ 12

The Committee recommends that the Government review the frequency and timeliness of the reimbursement payments from the Administration Fund, with a view to ensuring that Members and parties are not disadvantaged by undue delays.

The Committee also recommends that reimbursements be paid quarterly in arrears (and subject to annual audit), commencing in 2013, with reimbursements to be paid within one month of receiving the receipts for administration-related expenditure.

## RECOMMENDATION 4 \_\_\_\_\_ 18

The Committee recommends a new funding formula for payments under the Administration Fund:

- First Member/independents - \$200,000
- Second Member - \$150,000
- Third Member - \$100,000
- Fourth - 25th Member - \$83,000 for each Member, with no further funding available for 26+ Members.

The Committee recommends maintaining the cap of 25 Members with respect to the maximum amount payable from the Administration Fund to a party.

The Committee recommends that the new funding formula be applied to administration-related expenditure accrued from 1 January 2012, with reimbursement for 2012 to be paid within a month of submitting final receipts 2012.



# Chapter One – Inquiry and Background

## The Inquiry

1.1 In a letter dated 30 May 2012, the Premier (in his capacity as the Minister responsible for the administration of the *Election Funding, Expenditure and Disclosures Act 1981*) wrote to the then Chair of the Committee, the Hon. Trevor Khan MLC, referring to the Committee for inquiry matters relating to administrative funding for minor parties. Specifically, the Premier referred to section 97E of the *Election Funding, Expenditure and Disclosures Act 1981* relating to public funding of eligible parties for administrative expenditure. The Premier asked that the Committee inquire into and report on whether the annual amount to be distributed from the Administration Fund to any such eligible party remains appropriate.

1.2 On 13 June 2012, the Committee passed a resolution as follows:

The Joint Standing Committee on Electoral Matters is to inquire into and report upon matters relating to the administrative funding for minor parties and specifically the annual amount to be distributed from the Administration Fund to eligible minor parties.

1.3 The Committee publicly advertised the Inquiry and wrote to the following stakeholders inviting submissions on the terms of reference by 31 July 2012:

- The Australian Labor Party
- The Liberal Party
- The Nationals
- The Greens
- The Christian Democratic Party
- The Shooters and Fishers Party
- The Australian Democrats
- The Australian Sex Party

These stakeholders were also invited to attend a public hearing on 24 August 2012.

1.4 On 15 August 2012 the following parties were invited to attend the public hearing and make a submission:

- The Country Labor Party
- The Unity Party
- Socialist Alliance
- Save Our State
- The Outdoor Recreation Party
- Family First
- Building Australia

- 1.5 On 24 August 2012, a Public Hearing was held at Parliament House. Evidence was taken from seven witnesses. A complete list of witnesses may be found at Appendix Two.
- 1.6 The transcript of evidence from the hearing may be found at the Committee's website: <http://www.parliament.nsw.gov.au/electoral matters>
- 1.7 During the course of the Inquiry, the Committee had reference to the following:
- The theory underpinning the public funding of political parties;
  - Evidence in relation to what constitutes a minor party;
  - Information relating to the Administration Fund and disclosure and compliance requirements relating to that Fund;
  - Evidence in relation to the administrative impact of complying with the requirements of the Administration Fund;
  - Evidence in relation to the administrative impact of changes to the laws regulating political donations;
  - The administrative impact that a changing number of Members of Parliament may have on a minor party; and
  - The reliance minor parties have on volunteers.
- 1.8 The Committee has outlined its findings in relation to these issues below.

### Public funding of political parties

- 1.9 The *Election Funding Act 1981* (now the *Election Funding, Expenditure and Disclosures Act 1981*) was introduced to provide public funding for election purposes. The scheme established by the Act provided public funding for State elections and disclosure of both election expenditure and political donations.
- 1.10 It has been observed that the public funding of political parties, whether within or beyond an election campaign context, is a highly contested issue. The libertarian view is that people or organisations have the right to speak as loudly and spend as freely as they wish to achieve their political ends, contrasting with a collectivist view which seeks to curtail those rights in certain respects in the interests of limiting inequalities of influence and thereby ensuring a 'fairer' democratic process.<sup>1</sup>
- 1.11 There have been a number of inquiries into the public funding of elections and associated activities in NSW. These inquiries have included an Inquiry into Electoral and Political Party Funding in New South Wales by the Select Committee

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<sup>1</sup> Brenton Holmes, *Background Note: Political financing: regimes and reforms in Australian states and territories*. Politics and Public Administration Section, Department of Parliamentary Services, Parliament of Australia, 19 March 2012, p. 4.

on Electoral and Political Party Funding in June 2008; an Inquiry into Public Funding of Election Campaigns by the Joint Standing Committee on Electoral Matters in March 2010; and a 2011 Legislative Council Inquiry into the provisions of the *Election Funding, Expenditure and Disclosures Bill 2011*.

### *The reforms of 2008*

- 1.12 As reported by the Select Committee on Electoral and Political Party Funding in June 2008, the NSW electoral finance regime has had two underlying objectives since its inception in 1981: to prevent corruption and undue influence, and to level the playing field by ensuring an adequate level of financial resources for all, including minor parties and independent candidates.<sup>2</sup>
- 1.13 Following the 2008 Inquiry, the then Government introduced the *Election Funding Amendment (Political Donations and Expenditure) Bill 2008* and the *Local Government and Planning Legislation Amendment (Political Donations) Bill 2008* with the purpose of increasing transparency and accountability in relation to the making and acceptance of political donations.
- 1.14 The 2008 reforms introduced: new roles for the management of campaign finances that prevented elected Members and candidates from having personal campaign accounts; a uniform disclosure threshold of \$1,000 to simplify the disclosure process and improve compliance; biannual disclosure of political donations and electoral expenditure, rather than disclosure once every four years; a reduced time period of eight weeks for the disclosure of political donations and expenditure; a requirement that donations that exceed \$1,000 must come either from individuals or entities with Australian Business Numbers; powers to enable the Election Funding Authority to recover double the amount of any unlawful political donation; increased penalties for breaches of the law; disclosure of the terms and conditions of loans of \$1,000 or more from non-banks; a requirement that all donations be paid into the campaign account and a requirement that all electoral expenditure be paid from the campaign account; and a ban on 'in kind' donations valued at \$1,000 or more.
- 1.15 Further changes to the electoral system were made in 2009, with the prohibition of donations from property developers.<sup>3</sup>

### *The reforms of 2010*

- 1.16 In its Public Funding of Election Campaigns Report of March 2010, the Joint Standing Committee on Electoral Matters noted a sense within the community that the system of campaign financing had broken and required fixing.<sup>4</sup> The Report made a number of recommendations that were subsequently enacted, including: capping donations from individuals at \$2,000 per political party, group or independent candidate per financial year; restricting donations from individuals to individuals on the NSW and/or Australian electoral roll; and capping donations from entities at \$2,000 per political party, group or independent

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<sup>2</sup> Select Committee on Electoral and Political Party Funding, *Electoral and Political Party Funding in New South Wales*, NSW Legislative Council, Sydney, June 2008, p. xi

<sup>3</sup> *Election Funding and Disclosures Amendment (Property Developers Prohibitions) Act 2009*.

<sup>4</sup> Joint Standing Committee on Electoral Matters, *Public Funding of Election Campaigns*, Parliament of NSW, Sydney, 2010, p. vii.

candidate per financial year; introducing expenditure caps for political parties, candidates and groups contesting State elections, with advertising and communication by third-parties also to be regulated.<sup>5</sup>

- 1.17 The enactment changed the limit from \$2,000 to \$5,000 for registered parties and groups, with a \$2,000 cap remaining with respect to non-registered parties, elected Members, candidates and third-party campaigners.
- 1.18 The Act was further amended in 2010 to prohibit donations from tobacco industry business entities and liquor or gambling industry business entities<sup>6</sup>, as well as introducing the regulation of third-party campaigners into the election funding and disclosures regime.

### *The Election Funding, Expenditure and Disclosures Amendment Act 2012*

- 1.19 In 2011, the Legislative Council established an inquiry into the provisions of the *Election Funding, Expenditure and Disclosures Bill 2011*. The Legislative Council Inquiry heard evidence that a shift to a system that only permitted donations from individuals 'clearly favours those at the wealthier end of the scale'<sup>7</sup>. The report notes that the ban on donations by anyone other than individuals:

may disadvantage both smaller political parties and individuals not on the electoral roll.<sup>8</sup>

- 1.20 The Bill passed both Houses and the effects of the amendments to the *Election Funding, Expenditure and Disclosures Act 1981* by the *Election Funding, Expenditure and Disclosures Amendment Act 2012* were twofold:
- The introduction of the provision for the aggregation of electoral communication expenditure of parties and their affiliated organisations, through the insertion of new provision in section 95G of the Act; and
  - Limiting the ability to make political donations to individuals only, through replacing section 96D of the Act.

### Definition of a 'minor party'

- 1.21 A registered party under Part 4A of the *Parliamentary Electorates and Elections Act 1912* is one that has at least 750 members and that is established on the basis of a written constitution that sets out the platform or objectives of the party and has met the administrative requirements under Part 4A.
- 1.22 There is no statutory definition for 'minor party' in New South Wales. It has been observed that minor parties are parties that consistently fail to achieve inclusion in the Government of the day.<sup>9</sup> A similar definition of minor party is that it is any

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<sup>5</sup> *Election Funding, Expenditure and Disclosures Act 1981*, s 95A

<sup>6</sup> *Election Funding, Expenditure and Disclosures Act 1981*, s 96AA and 96GB

<sup>7</sup> Mark Lennon, Unions NSW, Hearing, Inquiry into the Provisions of the *Election Funding, Expenditure and Disclosures Bill 2011*, Election Funding Committee, Hearing 18 January 2012, page 7 of the Transcript of Hearing.

<sup>8</sup> Select Committee on the Election Funding Bill 2011, *Inquiry into the provisions of the Election Funding, Expenditure and Disclosures Bill 2011*, NSW Legislative Council, Sydney, 2012, p xv

<sup>9</sup> Rodney K Smith, *Against the Machines: Minor Parties and Independents in New South Wales*, The Federation Press, Leichhardt, p. 11

party other than the Labor, Liberal or National (Country) party.<sup>10</sup> An alternative approach is to look to the number of seats a party has in the Parliament.<sup>11</sup>

1.23 The Committee heard evidence from both the Christian Democratic Party and the Shooters and Fishers Party that a party with four or fewer Members of Parliament could be considered a 'minor party'.<sup>12</sup>

1.24 The Committee notes that the Parliamentary Remuneration Tribunal refers in its 2012 Annual Report and Determination to parties with:

- Not less than 10 Members in the Parliament;<sup>13</sup>
- Not fewer than nine Members of the Legislative Council;<sup>14</sup>
- Not less than 10 Members of the Legislative Assembly;<sup>15</sup> and
- No fewer than 40 Members of the Legislative Assembly.<sup>16</sup>

The Tribunal also has reference to the 'Third Party in the Assembly' with not less than 10 Members.<sup>17</sup>

1.25 The Committee notes that cross benchers in the Legislative Council who are not Ministers receive two staff members, whereas other Members of the Legislative Council who are not Ministers receive one staff member.

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<sup>10</sup> Keith Richmond, "Minor Parties in Australia", in Graeme Starr, Keith Richmond and Graham Maddox, *Political Parties in Australia*, Heinemann Educational Australia, Melbourne, p. 317

<sup>11</sup> Campbell Sharman, "Political Parties", in Judith Brett, James Gillespie and Murray Goot (eds), *Developments in Australian Politics*, Macmillan, Melbourne, pp 146-151

<sup>12</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, page 13 of the Transcript of Hearing and Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, page 27 of the Transcript of Hearing.

<sup>13</sup> Parliamentary Remuneration Tribunal NSW, 'Annual Report and Determination 2012', 4 May 2012 p. 48 accessed on 29 August 2012 at:

[http://www.dpc.nsw.gov.au/data/assets/pdf\\_file/0020/141851/Annual\\_Report\\_and\\_Determination\\_2012\\_-\\_Copy\\_for\\_Gazette.pdf](http://www.dpc.nsw.gov.au/data/assets/pdf_file/0020/141851/Annual_Report_and_Determination_2012_-_Copy_for_Gazette.pdf)

<sup>14</sup> Parliamentary Remuneration Tribunal NSW, 'Annual Report and Determination 2012', 4 May 2012 p. 46 accessed on 29 August 2012 at:

[http://www.dpc.nsw.gov.au/data/assets/pdf\\_file/0020/141851/Annual\\_Report\\_and\\_Determination\\_2012\\_-\\_Copy\\_for\\_Gazette.pdf](http://www.dpc.nsw.gov.au/data/assets/pdf_file/0020/141851/Annual_Report_and_Determination_2012_-_Copy_for_Gazette.pdf)

<sup>15</sup> Parliamentary Remuneration Tribunal NSW, 'Annual Report and Determination 2012', 4 May 2012, p. 46 accessed on 29 August 2012 at:

[http://www.dpc.nsw.gov.au/data/assets/pdf\\_file/0020/141851/Annual\\_Report\\_and\\_Determination\\_2012\\_-\\_Copy\\_for\\_Gazette.pdf](http://www.dpc.nsw.gov.au/data/assets/pdf_file/0020/141851/Annual_Report_and_Determination_2012_-_Copy_for_Gazette.pdf)

<sup>16</sup> Parliamentary Remuneration Tribunal NSW, 'Annual Report and Determination 2012', 4 May 2012 accessed on 29 August 2012 at:

[http://www.dpc.nsw.gov.au/data/assets/pdf\\_file/0020/141851/Annual\\_Report\\_and\\_Determination\\_2012\\_-\\_Copy\\_for\\_Gazette.pdf](http://www.dpc.nsw.gov.au/data/assets/pdf_file/0020/141851/Annual_Report_and_Determination_2012_-_Copy_for_Gazette.pdf)

<sup>17</sup> Parliamentary Remuneration Tribunal NSW, 'Annual Report and Determination 2012', 4 May 2012 p.28 and 39 accessed on 29 August 2012 at:

[http://www.dpc.nsw.gov.au/data/assets/pdf\\_file/0020/141851/Annual\\_Report\\_and\\_Determination\\_2012\\_-\\_Copy\\_for\\_Gazette.pdf](http://www.dpc.nsw.gov.au/data/assets/pdf_file/0020/141851/Annual_Report_and_Determination_2012_-_Copy_for_Gazette.pdf)

- 1.26 It has also been observed that there is no clear organisational dividing line between minor parties and Independent support groups as office-seeking organisations.<sup>18</sup> The organisational similarities between some Independent supporter groups and some minor parties have led to suggestions that Independents should be seen as a type of minor party.<sup>19</sup>

## RECOMMENDATION 1

**The Committee recommends that, should a funding model be introduced with respect to 'minor parties', that the term 'minor party' be defined.**

### Administration fund

- 1.27 Under the *Election Funding, Expenditure and Disclosures Act 1981*, Independent Members of Parliament and parties with Members of Parliament are entitled to reimbursement for specified administration and operation expenses. These reimbursements are paid from the Administration Fund, which is managed by the Election Funding Authority (EFA).
- 1.28 A party is eligible for annual payments from the Administration Fund if it was a registered party at the previous State election, it endorsed candidates who were elected at that election and the party continued to be a registered party.<sup>20</sup> Administrative expenditure is defined at section 97B (1)(a) of the *Election Funding, Expenditure and Disclosures Act 1981* as follows:
- (i) expenditure for the administration or management of the activities of the eligible party or elected Member;
  - (ii) expenditure for conferences, seminars, meetings or similar functions at which the policies of the eligible party or elected Member are discussed or formulated;
  - (iii) expenditure on providing information to the public or a section of the public about the eligible party or elected Member;
  - (iv) expenditure on providing information to members and supporters of the eligible party or elected Member;
  - (v) expenditure in respect of the audit of the financial accounts of, or claims for payment or disclosures under this Act of, the eligible party or elected Member;
  - (vi) expenditure on the remuneration of staff engaged in the above activities for the eligible party or elected Member (being the proportion of that remuneration that relates to the time spent on those activities);

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<sup>18</sup> Rodney K Smith, *Against the Machines: Minor Parties and Independents in New South Wales*, The Federation Press, Leichhardt, p. 16

<sup>19</sup> Keith Richmond, "Minor Parties in Australia", in Graeme Starr, Keith Richmond and Graham Maddox, *Political Parties in Australia*, Heinemann Educational Australia, Melbourne, p. 332

<sup>20</sup> Section 97E(2) *Election Funding, Expenditure and Disclosures Act 1981*

- (vii) expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities);
  - (viii) expenditure on office accommodation for the above staff and equipment; and
  - (ix) expenditure on interest payments on loans.
- 1.29 Section 97B(1)(b) expressly excludes the following from the definition of administrative expenditure:
- (i) electoral expenditure;
  - (ii) expenditure for which a Member may claim a parliamentary allowance as a Member;
  - (iii) expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament; and
  - (iv) expenditure prescribed by the regulations. There are no such regulations at the time of Reporting.
- 1.30 The annual amount payable to an eligible party is the amount of administrative expenditure it incurred during the calendar year up to a maximum amount. The maximum amount that may be claimed from the Administration Fund annually is currently \$83,000 for each elected Member endorsed by the party, or \$2,073,100 - whichever is less.<sup>21</sup>
- 1.31 An elected Independent Member is eligible for annual payments on a calendar year basis from the Administration Fund if the elected Member was not an endorsed candidate of any party at the State election at which the Member was elected. The annual amount payable to an eligible elected Member is the amount of administration and operating expenditure incurred during the calendar year, but not exceeding \$83,000.<sup>22</sup>

### *Evidence supporting the fund*

- 1.32 In its submission to this Inquiry, the Christian Democratic Party brought the attention of the Committee to the Electoral Commissioner's comments during the Public Hearing of this Committee's Inquiry into Public Funding of Election Campaigns.<sup>23</sup>

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<sup>21</sup> Section 97E(3)*Election Funding, Expenditure and Disclosures Act 1981*, with amounts adjusted for inflation as outlined in sub-clause 2(1) of Schedule 1 of the Act, and confirmed on the Election Funding Authority website on 4 October 2012 at [http://efa.nsw.gov.au/data/assets/pdf\\_file/0004/93271/Fact\\_Sheet\\_Administration\\_and\\_Policy\\_Dev\\_funds\\_V3.pdf](http://efa.nsw.gov.au/data/assets/pdf_file/0004/93271/Fact_Sheet_Administration_and_Policy_Dev_funds_V3.pdf). Amounts in this Report reference the amount adjusted for inflation.

<sup>22</sup> Section 97F(3)*Election Funding, Expenditure and Disclosures Act 1981*

<sup>23</sup> Colin Barry, New South Wales Electoral Commissioner and Chair of the Election Funding Authority, Public Hearing, Inquiry into Public Funding of Election Campaigns, 9 December 2009, pp. 2-5 of the Transcript of Hearing

- 1.33 The Commissioner referred to four governing principles of a democratic political finance scheme as being:
- (a) The protection of the integrity of representative government;
  - (b) The promotion of fairness in politics;
  - (c) Support of parties to perform their functions; and
  - (d) Respect for political freedoms.
- 1.34 It was observed during the course of the Inquiry that if democracy is a free market for competing ideas, then New South Wales is like the supermarkets – dominated by the equivalent of Coles and Woolworths, while the other parties are like Metcash and Foodland, happy not to have any more competitors.<sup>24</sup> As such, financial assistance for administration was required in order to assist the smaller parties to remain in the political process.
- 1.35 The Outdoor Recreation Party provided evidence that it would prefer to fully fund its activities, but the restrictions on donations are so limiting that self funding is no longer an option, with the Party's registered officer observing that "charging taxpayers is needed merely to participate in the democratic market, let alone succeed".<sup>25</sup>
- 1.36 The Committee also heard evidence that whereas the changes to the *Election Funding, Expenditure and Disclosures Act 1981* were introduced with the aim of limiting the corrupting influence of external donations and creating a level playing field, it has created instead:
- a more deep-seated corruption of a different kind which sees the major political parties now using electoral laws as weapons against one another and against the emergence of new ideas and players in the political game".<sup>26</sup>
- In such circumstances, the Committee considers the availability of the Administration Fund to enable smaller parties to emerge to be important.
- 1.37 The Committee heard evidence that the level of expenditure and compliance required to meet a party's obligations under the *Election Funding, Expenditure and Disclosures Act 1981* was well beyond the capability of smaller political parties, being so onerous as to be a barrier to entry and therefore a denial of democratic expression.<sup>27</sup>

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<sup>24</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 2 of the Transcript of Hearing.

<sup>25</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 3 of the Transcript of Hearing.

<sup>26</sup> Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 20 of the Transcript of Hearing.

<sup>27</sup> Shooters and Fishers Party, Submission No. 1, Inquiry into administrative funding for minor parties, p. 5.

*Evidence against the continuation of the fund.*

- 1.38 The Committee heard evidence that the Administration Fund should be disbanded. The Outdoor Recreation Party indicated that whilst a majority of people would not donate money to political parties, under the current election funding rules millions of dollars from all taxpayers goes to fund the parties whether taxpayers like it or not.<sup>28</sup>
- 1.39 However, as noted above, the Outdoor Recreation Party acknowledged that given the restrictions on political donations, the Administration Fund is necessary to enable smaller political parties to participate in the political process.

**RECOMMENDATION 2**

**The Committee recommends that ongoing access to the Administration Fund should be maintained to ensure the strength of the democratic process in New South Wales.**

**Disclosure and compliance requirements**

- 1.40 Following the commencement of amendments to the *Election Funding, Expenditure and Disclosures Act 1981* on 1 January 2011, caps and prohibitions were placed on political donations and electoral communication expenditure. Disclosures were subsequently required for political donations received or made and electoral expenditure incurred by candidates, groups of candidates, elected Members, and third-party campaigners, with disclosure also required with respect to political donations made by major political donors.<sup>29</sup>
- 1.41 Following further amendment to the Act in February 2012, only individuals on the NSW electoral roll may now make political donations.<sup>30</sup> This follows a prohibition placed on political parties, candidates, groups of candidates, elected Members and third-party campaigners for accepting political donations from corporations or other entities.<sup>31</sup>
- 1.42 Parties and candidates in NSW must disclose all political donations received following the end of the financial year in which the donation was received.<sup>32</sup> Donations of \$1,000 or less are 'small political donations' and disclosure of all details in relation to small political donations is not required – although the aggregate of all small political donations, including the number of donors, must be disclosed.<sup>33</sup> If small donations by one donor to one person or entity in total reaches or exceeds \$1,000 in the financial year, then details must be disclosed.<sup>34</sup> If no donations are received, the Election Funding Authority requires that a 'nil'

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<sup>28</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 2 of the Transcript of Hearing.

<sup>29</sup> Schedule 1, *Election Funding and Disclosures Amendment Act 2010*

<sup>30</sup> Section 96D *Election Funding, Expenditure and Disclosures Act 1981*

<sup>31</sup> Part 6 Divisions 4, 4A *Election Funding, Expenditure and Disclosures Act 1981*

<sup>32</sup> Part 6 Division 2 *Election Funding, Expenditure and Disclosures Act 1981*

<sup>33</sup> Subsection 86(2) *Election Funding, Expenditure and Disclosures Act 1981*

<sup>34</sup> Section 90 *Election Funding, Expenditure and Disclosures Act 1981*

disclosure be lodged.<sup>35</sup> Disclosures are to be made on or before 21 September for the period ending on 30 June that year.<sup>36</sup>

- 1.43 Donors are required to disclose the details of political donations made to parties or candidates if the donation had a value of or exceeding \$1,000.<sup>37</sup> A disclosure is required to be made on or before 19 October for the period ending on 30 June in the year in which a reportable political donation of \$1,000 or more was made.<sup>38</sup> Individuals will be capped to donations of \$5,300 in the year 2012/2013.<sup>39</sup>
- 1.44 Disclosure is required of all electoral expenditure incurred by or on behalf of a party (whether a party is registered or not), an elected Member, a group, a candidate or a third-party campaigner.<sup>40</sup> Disclosure reports cover each 12-month period ending on 30 June. If no expenditure was incurred, the Election Funding Authority requires that a 'nil' disclosure be lodged.<sup>41</sup>

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<sup>35</sup> Electoral Funding Fact Sheet, accessed on 26 September 2012:

[http://efa.nsw.gov.au/members\\_of\\_nsw\\_parliament](http://efa.nsw.gov.au/members_of_nsw_parliament)

<sup>36</sup> Clause 8A *Election Funding, Expenditure and Disclosures Regulation 2009*

<sup>37</sup> Part 6 Division 2 *Election Funding, Expenditure and Disclosures Act 1981*

<sup>38</sup> Clause 8A *Election Funding, Expenditure and Disclosures Regulation 2009*, adjusted for inflation as per Schedule 1 of the *Election Funding, Expenditure and Disclosures Act 1981* and as outlined on the Election Funding Authority website, accessed on 4 October 2012

[http://efa.nsw.gov.au/donors/political\\_donations\\_and\\_electoral\\_expenditure2](http://efa.nsw.gov.au/donors/political_donations_and_electoral_expenditure2)

<sup>39</sup> Section 95A *Election Funding, Expenditure and Disclosures Act 1981*

<sup>40</sup> Section 90 *Election Funding, Expenditure and Disclosures Act 1981*

<sup>41</sup> Electoral Funding Fact Sheet, accessed on 26 September 2012:

[http://efa.nsw.gov.au/members\\_of\\_nsw\\_parliament](http://efa.nsw.gov.au/members_of_nsw_parliament)

## Chapter Two – Administrative costs of minor parties

- 2.1 The Committee heard evidence of the administrative costs associated with minor parties. This includes: the costs associated with maintaining a party's status as a registered party; the reimbursement nature of the Administration Fund and the impact this has on cash flow; costs associated with ensuring the party is not in breach of donation laws; the high standard required in reporting to the Election Funding Authority including the auditing requirement; and the cost of developing software to facilitate the management of each party's administrative obligations.

### *Cost of maintaining 'registered party' status in New South Wales*

- 2.2 The Committee heard that one administrative cost incurred by political parties is the cost related to the party registration system in New South Wales, where the party must ensure that its minimum number of members (750) will return paper work provided to them by the Election Funding Authority. In order to save the costs associated with a system that continually requires parties to demonstrate they still meet the requirements of a registered party, the Outdoor Recreation Party recommended that New South Wales adopt the same approach as the Northern Territory and automatically register parties that are already registered Federally.<sup>42</sup>
- 2.3 In particular, the Committee heard that the threshold of 500 members and the process of verifying those 500 members, as managed federally by Australian Electoral Commission, was a less onerous obligation when establishing a registered party than the New South Wales requirements relating to confirming membership of 750 members, with the New South Wales Electoral Commission requiring 750 returned documents from such members.<sup>43</sup>

### *Reimbursement and cash flow*

- 2.4 The fact that payments from the Administration Fund are based on reimbursement was highlighted by minor parties as an issue. For example, the Outdoor Recreation Party observed of the Administration Fund process:
- it is based on reimbursement. You have to have the money to spend in the first place. We don't.<sup>44</sup>
- 2.5 In particular the Christian Democratic Party noted its concerns in relation to the time it took to reimburse parties:

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<sup>42</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 2 of the Transcript of Hearing.

<sup>43</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 8 of the Transcript of Hearing.

<sup>44</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 3 of the Transcript of Hearing.

The party had cash flow issues because it was not being paid on a timely enough basis by the Election Funding Authority to reimburse validly and legally spent administrative expenses.<sup>45</sup>

- 2.6 The Shooters and Fishers Party echoed these concerns, indicating that it was required to seek short term borrowing to meet its expenditure whilst waiting for reimbursements from the Election Funding Authority.<sup>46</sup>

### RECOMMENDATION 3

**The Committee recommends that the Government review the frequency and timeliness of the reimbursement payments from the Administration Fund, with a view to ensuring that Members and parties are not disadvantaged by undue delays.**

**The Committee also recommends that reimbursements be paid quarterly in arrears (and subject to annual audit), commencing in 2013, with reimbursements to be paid within one month of receiving the receipts for administration-related expenditure.**

#### *Costs associated with ensuring compliance with donation laws*

- 2.7 The Christian Democratic Party informed the Committee that it had lost a major source of funding following the introduction of legislation prohibiting donations from entities such as Churches or Christian Institutions.<sup>47</sup> The Committee heard evidence from the Christian Democratic Party that it is now largely funded by small donors, with donations of \$10 or \$1,000 all needing to meet the requirements of the law:

It is not only trying to identify them beforehand, it is the whole process of recording so that you have got the correct data that then has to be put into disclosures that the Election Funding Authority requires in terms of the breakdown.<sup>48</sup>

- 2.8 The Shooters and Fishers Party shared this concern:

All receipts of donations, subscriptions and other sources of revenue need to be scrutinised and vetted as being acceptable under the new provisions of the Act. This administrative role is ongoing and not limited to the period of the election campaign. It requires a level of skill and responsibility of an experienced professional familiar with the intricacies of the Act.<sup>49</sup>

- 2.9 Another impact of the changes to donation laws relate to the administrative costs of informing members and donors of the changes and how it affects them.<sup>50</sup>

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<sup>45</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 14 of the Transcript of Hearing.

<sup>46</sup> Charles Pitt, Independent Auditor, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 22 of the Transcript of Hearing.

<sup>47</sup> Christian Democratic Party, Submission No. 2, Inquiry into administrative funding for minor parties, p. 6.

<sup>48</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 14 of the Transcript of Hearing.

<sup>49</sup> Shooters and Fishers Party, Submission No. 1, Inquiry into administrative funding for minor parties, pp. 3-4.

<sup>50</sup> Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 21 of the Transcript of Hearing.

- 2.10 The Committee heard evidence that in order to meet their administrative obligations with respect to the new donation laws, small parties were now required to professionalise and cease to rely on volunteers. Employing staff to administer the party in compliance with the legislation and securing an office were all seen to be necessary responses to the legislation.<sup>51</sup>

*Reporting standards and auditing*

- 2.11 The Committee heard that applying for reimbursement from the Administration Fund required planning and, with time at a premium for organisations run by volunteers, this was another impediment to claiming funds.<sup>52</sup>
- 2.12 In its submission to the Inquiry, the Shooters and Fishers Party highlighted the degree of detail required when making a claim for reimbursement, noting that it required keeping comprehensive records, tailored to the reporting requirements of the Election Funding Authority. The increased reporting requires a permanent office and full time staff.<sup>53</sup>
- 2.13 One impact of the changes is that parties must audit the receipt of donations to ensure that each donation received does not breach the legislative requirements, particularly in relation to donors being enrolled to vote in New South Wales. The Committee heard evidence that the cost of providing audited requests for reimbursement was unreasonable in circumstances where the Election Funding Authority also effectively audited the requests.<sup>54</sup>
- 2.14 Another cost of complying with the funding requirements related to the management of a number of bank accounts in order to appropriately account for different spending in separate jurisdictions.<sup>55</sup>
- 2.15 The Shooters and Fishers Party gave evidence that the legislative regime was punitive and:
- by creating a regulatory regime in the guise of probity purporting to control and track taxpayer funded administration through overwhelming compliance and bureaucratic detail and burden which minor parties are simply not set up to cope with.<sup>56</sup>

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<sup>51</sup> Charles Pitt, Independent Auditor, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 21 of the Transcript of Hearing.

<sup>52</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 3 of the Transcript of Hearing.

<sup>53</sup> Shooters and Fishers Party, Submission No. 1, Inquiry into administrative funding for minor parties, page 4.

<sup>54</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 3 of the Transcript of Hearing.

<sup>55</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 9 of the Transcript of Hearing and Raymond Thew, Acting State Manager, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 11 of the Transcript of Hearing and Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 20 of the Transcript of Hearing.

<sup>56</sup> Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 20 of the Transcript of Hearing.

### *Software development*

- 2.16 A further compliance cost related to the legislative requirements was the development of "sophisticated software". The Shooters and Fishers Party provided evidence that such software would enable the Party to cross reference donors with the Electoral Commission database of registered voters.<sup>57</sup> The submission from the Christian Democratic Party indicated that it, too, had purchased software to better manage compliance with the new laws:

Due to the complexities arising out of the new donation and disclosure rules we have been obliged to purchase a new administration software package so that we can more easily identify and therefore report donations and expenditure... the end cost of installing and modifying this software package will be approximately \$60,000 plus staff costs.<sup>58</sup>

- 2.17 The Hon. Dr Peter Phelps MLC summarised the position of the Shooters and Fishers Party, with the agreement of that Party during the Hearing, as follows:

There are new and significant costs incurrent by the new administrative arrangements... because of your brief donation structure you have lost a significant amount of money through the new donation rules... and together the two of those put you in a position where your administrative costs are significant... Through no fault of your own you find yourself in the situation of a shortfall and because these two changes were ostensibly brought about by Government legislation there is a property right argument that you should be compensated for those changes.<sup>59</sup>

- 2.18 The Shooters and Fishers Party agreed that, depending on the level of increase, they could live with a situation where its administrative costs were covered by an increase in annualised funding.<sup>60</sup> In its submission to the Inquiry, the Shooters and Fishers Party outlined the compounding nature of the changes to the *Election Funding, Expenditure and Disclosures Act*:

It is one thing to cap election funding and expenditure, it is entirely another to choke the administration effort so as to prevent growth of smaller parties.<sup>61</sup>

- 2.19 The Committee recognises that there has been a particular impact on minor parties with respect to the administrative costs related to complying with the *Election Funding, Expenditure and Disclosures Act 1981*.

- 2.20 The Committee recognises that as a result of the amendments to the *Election Funding, Expenditure and Disclosures Act 1981* the minor parties may be receiving fewer donations. The Committee also recognises that the same amendments to the *Election Funding, Expenditure and Disclosures Act 1981* have resulted in an increased administrative burden on minor parties, resulting in higher administrative costs.

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<sup>57</sup> Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 25 of the Transcript of Hearing.

<sup>58</sup> Christian Democratic Party, Submission No. 2, Inquiry into administrative funding for minor parties, p. 7.

<sup>59</sup> Dr Peter Phelps MLC, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 22 of the Transcript of Hearing.

<sup>60</sup> Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 28 of the Transcript of Hearing.

<sup>61</sup> Shooters and Fishers Party, Submission No. 1, Inquiry into administrative funding for minor parties, p. 5.

## Administrative impact of number of elected representatives

- 2.21 The Committee heard evidence that a party's administrative costs include providing responses to requests for information from members and the public.<sup>62</sup> The Committee understands that this cost would most likely increase with each elected Member of Parliament, hearing evidence that the election of a single Member "may generate a lot more head office inquiries from the outside public"<sup>63</sup>. Conversely, a reduction in a party's seats in Parliament may result in less administrative spending.<sup>64</sup>
- 2.22 The Committee also heard evidence from the Shooters and Fishers Party that it had certain fixed costs, and the incremental costs associated with having more Members in Parliament would result in higher costs.<sup>65</sup>

## Reliance on volunteers

- 2.23 The Committee heard evidence that the changes to legislation relating to political donations, and the subsequent increase in administrative work to comply with the new requirements, have led to an increased reliance on voluntary workers. This has a far reaching impact on the parties:

That unfortunately introduces the potential for errors. If somebody comes in for a day a week or a month of voluntary work and then moves elsewhere it may not be until later on that any errors that that person has made may come to the surface and that has to be undone.<sup>66</sup>

- 2.24 The Committee heard evidence that the reliance on volunteers kept the cost of administering parties down.<sup>67</sup> The Outdoor Recreation Party provided evidence that its turnover was less than \$15,000 per annum<sup>68</sup> with an entitlement to claim up to \$8,900 in reimbursements from the Election Funding Authority.<sup>69</sup> The Outdoor Recreation Party noted that "if we had \$100,000 for administration we would find a way to use it productively".<sup>70</sup> The Christian Democratic Party

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<sup>62</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 11 of the Transcript of Hearing.

<sup>63</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 13 of the Transcript of Hearing.

<sup>64</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 13 of the Transcript of Hearing.

<sup>65</sup> Stephen Larsson, Deputy Registered Officer, Shooters and Fishers Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 27 of the Transcript of Hearing.

<sup>66</sup> Raymond Thew, Acting State Manager, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 11 of the Transcript of Hearing.

<sup>67</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 11 of the Transcript of Hearing.

<sup>68</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, answers to questions on notice.

<sup>69</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 3 of the Transcript of Hearing.

<sup>70</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 5 of the Transcript of Hearing.

estimated its overhead figure for administration as being \$400,000 per annum.<sup>71</sup>  
The Christian Democratic Party agreed during evidence at the Hearing that

the party could not function without [Mr Smith's] contribution and perhaps Mr Thew's and other volunteers contributions because it could not raise the money for that administration work if it was not getting those voluntary contributions<sup>72</sup>

- 2.25 In addition to relying on volunteers to undertake work, the Committee also heard that some minor parties rely on volunteers to provide capital such as equipment and vehicles.<sup>73</sup>
- 2.26 The Committee had reference to the history and experience of other political parties in New South Wales, noting that the major parties had grown to their current sizes through volunteerism and seeking donations from their members.<sup>74</sup>
- 2.27 The Committee notes that complying with the requirements of the *Election Funding, Expenditure and Disclosures Act 1981* can at times be complex, and a reliance by minor parties on volunteers to acquit the responsibilities of those parties might not, in all circumstances, be appropriate.

## PROPOSALS FOR THE ADMINISTRATION FUND

- 2.28 In New South Wales, as in Queensland and the Australian Capital Territory, the introduction of capped – and prohibited – political donations was coupled with the introduction of administration funding.
- 2.29 As noted above, in its submission to the Inquiry, the Outdoor Recreation Party provided evidence that it would prefer to fully fund its activities and scrap the Administration Fund, but the restrictions on donations are so limiting that self funding is no longer an option, with the Administration Fund subsequently necessary.<sup>75</sup>
- 2.30 In its submission, the Shooters and Fishers Party recommended that the maximum \$83,000 per Parliamentary Member per annum funding it received towards the reimbursement of administrative costs be increased to a minimum of \$500,000 per annum for parties with four or fewer Members of Parliament. The Shooters and Fishers Party also recommended an additional one-off capital grant of \$100,000 and provided information to the Committee about its previous administrative costs and projected administrative costs, which the Committee agreed to consider confidentially.

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<sup>71</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 11 of the Transcript of Hearing.

<sup>72</sup> Ian Smith, Treasurer, Christian Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 14 of the Transcript of Hearing.

<sup>73</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 6 of the Transcript of Hearing.

<sup>74</sup> Andrew Fraser MP, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 22 of the Transcript of Hearing.

<sup>75</sup> David Leyonhjelm, Registered Officer Outdoor Recreation Party and Liberal Democratic Party, Inquiry into administrative funding for minor parties, Hearing 24 August 2012, p. 3 of the Transcript of Hearing.

- 2.31 In its submission to the Inquiry, the Christian Democratic Party recommended that the administrative funding available to minor parties should be at least doubled. The Christian Democratic Party also provided information to the Committee with respect to its previous administrative costs and projected administrative costs, which the Committee also agreed to consider confidentially.
- 2.32 To better understand the impact of the increased payments recommended by the Shooters and Fishers Party and the Christian Democratic Party, the Committee wrote to the Electoral Commissioner, Mr Colin Barry, in his capacity as Chairperson of the Election Funding Authority on 3 September 2012. Mr Barry replied in a letter dated 19 September 2012, indicating that there would be no direct impact on the resources of the Authority if the amount of administrative funding to minor political parties increased. Mr Barry confirmed that the Authority would require additional funding to meet the extent of any increased entitlements of eligible political parties.
- 2.33 The Election Funding Authority has confirmed that the following amounts were distributed from the Administration Fund with respect to the 2011 calendar year:
- |   |                            |
|---|----------------------------|
| ▪ Australian Labor Party (NSW Branch)     | \$2,073,100.00             |
| ▪ Christian Democratic Party              | \$166,000.00               |
| ▪ Country Labor Party                     | \$249,000.00               |
| ▪ Liberal Party of Australia NSW Division | \$2,073,100.00             |
| ▪ National Party of Australia – NSW       | \$2,073,100.00             |
| ▪ Shooters and Fishers Party              | \$166,000.00               |
| ▪ The Greens                              | \$483,872.18 <sup>76</sup> |

## CONCLUSION

- 2.34 The *Election Funding, Expenditure and Disclosures Amendment Act 2012* amended the *Election Funding, Expenditure and Disclosures Act 1981* to prevent political donations from sources other than individuals, including corporations, industrial organisations, peak industry groups, religious institutions and community organisations.
- 2.35 This Committee has heard evidence about the onerous impact the 2012 amendments have had, particularly on minor parties in New South Wales. The Committee also heard evidence of the negative impact that caps on political donations have had on minor parties.
- 2.36 In New South Wales, Queensland and the Australian Capital Territory, in circumstances where political donations are capped or prohibited, funds have been made available to ameliorate the impact that a reduced amount of capital may have on the operation of a political party. During the course of this Inquiry, the Committee heard evidence that the amount distributed from the

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<sup>76</sup> Letter from Mr Colin Barry, Chair of the Election Funding Authority, to the Committee dated 19 September 2012

Administration Fund to eligible minor parties in New South Wales is not sufficient. This is supported by data from the Electoral Commission that shows the amounts paid out from the Administration Fund in 2011 was close or equal to the total available to all parties regardless of size.

- 2.37 The Committee agrees that the current amount of funding available under the Administration Fund is insufficient to enable parties, particularly minor parties, comply with electoral funding laws and administer the party. The Committee has considered the proposals put forward during the Inquiry, and believes that a new, funding formula should be established. The formula will be based on a sliding scale, with the amount per Member decreasing as the number of Members increases, to a maximum number of Members. The overall cap will also slightly increase as a consequence. The Committee recommends that the current cap of funding for 25 Members be maintained.
- 2.38 Under the Committee's recommended model, the first Member of Parliament elected from each party, and each Independent, will be entitled to \$200,000 administrative funding; the second Member of Parliament elected from each party entitled to \$150,000 administrative funding; the third Member of Parliament elected from each party entitled to \$100,000 administrative funding, and the fourth and every following Member entitled to \$83,000 administrative funding, with administrative funding capped at 25 Members (\$2,276,000):
- First Member/Independents - \$200,000
  - Second Member - \$150,000
  - Third Member - \$100,000
  - Fourth - 25th Member - \$83,000 for each Member, with no further funding available for 26+ Members.
- 2.39 The requirement that funding is based on the amount of administration-related expenditure actually incurred by a party during the calendar year will remain.

#### RECOMMENDATION 4

**The Committee recommends a new funding formula for payments under the Administration Fund:**

- **First Member/Independents - \$200,000**
- **Second Member - \$150,000**
- **Third Member - \$100,000**
- **Fourth - 25th Member - \$83,000 for each Member, with no further funding available for 26+ Members.**

**The Committee recommends maintaining the cap of 25 Members with respect to the maximum amount payable from the Administration Fund to a party.**

INQUIRY INTO ADMINISTRATIVE FUNDING FOR MINOR PARTIES  
ADMINISTRATIVE COSTS OF MINOR PARTIES

**The Committee recommends that the new funding formula be applied to administration-related expenditure accrued from 1 January 2012, with reimbursement for 2012 to be paid within a month of submitting final receipts 2012.**

## Appendix One – List of Submissions

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1	Shooters and Fishers Party
2	Christian Democratic Party

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## Appendix Two – List of Witnesses

24 August 2012, Waratah Room, Parliament House

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Witness	Position and Organisation
Mr David Leyonhjelm	Registered party officer <i>Outdoor Recreation Party</i>
Mr Ian Smith	Treasurer
Mr Raymond Thew	Acting State Manager <i>Christian Democratic Party</i>
Mr Robert Smith	Chairman <i>The Fishing Party</i>
Mr Charles Pitt	Auditor
Mr Stephen Larsson	Registered party officer <i>Shooters and Fishers Party</i>
Mr Graeme Dunne	Branch manager and party agent <i>The Australian Sex Party</i>

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## Appendix Three – Extracts from Minutes

### MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 9)

9:00 am, Wednesday, 13 June 2012

Committee Room 1153, Parliament House

#### MEMBERS PRESENT

Mr Khan (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Dr Phelps and Mr Primrose.

The Chair opened the meeting at 9.03 am.

#### Apologies

Apologies were received from Mr Ward.

#### 1. CONFIRMATION OF MINUTES

Resolved, on the motion of Dr Phelps:

'That the minutes of meeting no. 8 held on 10 May 2012 be confirmed.'

#### 2. CORRESPONDENCE FROM THE PREMIER, REQUESTING THAT THE COMMITTEE REVIEW PUBLIC FUNDING OF ELIGIBLE MINOR PARTIES FOR ADMINISTRATIVE EXPENDITURE

The Chair spoke to the item and discussion ensued.

Resolved, on the motion of Mr Fraser:

1. 'That the Committee accept the referral to conduct an inquiry into matters relating to the administrative funding for minor parties and specifically, the annual amount to be distributed from the Administration Fund to eligible minor parties.
2. That the Committee:
  - write to the Premier informing him of the Committee's decision;
  - write to the Election Funding Authority to seek information on how administrative funding for minor parties in NSW compares with other relevant jurisdictions;
  - issue a call for submissions, including advertising; and
  - write to interested parties including, but not limited to:
    - a) the Australian Labor Party;

- b) the Liberal Party of Australia;
  - c) the Nationals (NSW Branch);
  - d) the Greens;
  - e) the Christian Democratic Party;
  - f) the Shooters and Fishers Party;
  - g) the Australian Democrats; and
  - h) the Australian Sex Party
- to seek their views.

3. That the Committee direct committee staff to make the administrative arrangements in relation to the inquiry, including setting a date (and a reserve date) for a public hearing during the Spring Sitting break.

4. That the commencement of the inquiry be announced in the two Houses.'

Ms Fazio proposed that should Members have any additions to the list of interested parties (to whom the committee would write to in relation to the inquiry) they should send their suggestions to committee staff within five days. This proposal was agreed to.

3. \*\*\*

4. \*\*\*

The Committee adjourned at 9:12 am, until Friday 15 June.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 14)

9:18 am, Friday, 24 August 2012  
Waratah Room, Parliament House

### Members Present

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Mr Fraser, Mr Khan, Mr Lynch, Mr Maguire, Dr Phelps, Mr Primrose and Mr Ward.

*Staff in attendance:* Ms Carly Maxwell, Ms Emma Matthews, Mr Jonathan Elliott, Mr Rohan Tyler, Ms Jenny Whight, Ms Millie Yeoh

### 1. Apologies

An apology was received from Ms Fazio.

2. Confirmation of minutes

Resolved, on the motion of Mr Fraser, seconded by Mr Primrose, that the minutes of the deliberative meeting no. 13 be confirmed.

3. Inquiry into administrative funding for minor parties

Resolved, on the motion of Mr Fraser, seconded by Mr Primrose, that the parts of the submissions from the Shooters and Fishers Party and the Christian Democratic Party that are not confidential be uploaded and published on the Committee website.

Resolved, on the motion of Mr Fraser, seconded by Mr Primrose, that the Committee invite the following witnesses to give evidence –

Mr David Leyonhjelm, Registered Party Officer, Outdoor Recreation Party

Mr Ian Smith, Treasurer, Christian Democratic Party

Mr Robert Smith, Chairman, The Fishing Party

Mr Charles Pitt, Auditor and Mr Stephen Larsson, Registered Party Officer, Shooters and Fishers Party

Mr Graeme Dunne, The Australian Sex Party; and

That the Committee publish the transcript of evidence for the public hearing, once any corrections for inaccuracy have been made.

4. \*\*\*

5. Public Hearing – Administrative funding for minor parties

9:30 am Dr Phelps and Mr Ward arrived.

The press and public were admitted at 9:31 am

The Chair opened the public hearing and gave a short opening address.

Mr David Leyonhjelm, Registered Party Officer, affirmed and examined.

Mr Leyonhjelm made an opening statement.

The Chair commenced questioning the witness, followed by other Members of the Committee.

Mr Leyonhjelm agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

Mr Ian Smith, Treasurer, Christian Democratic Party and Mr Raymond Thew, Acting State Manager, Christian Democratic Party, both sworn and examined.

Mr Smith and Mr Thew both made opening statements.

The Chair commenced questioning the witnesses, followed by other Members of the Committee.

Mr Smith and Mr Thew agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the Chair thanked the witnesses for their attendance, the witnesses withdrew.

Mr Robert Smith, Registered Party Officer, The Fishing Party, sworn and examined.

Mr Smith made an opening statement.

The Chair commenced questioning the witness, followed by other Members of the Committee.

Mr Smith agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee took a short adjournment at 10:51am and resumed the public hearing at 11:00am.

Mr Charles Pitt, Auditor, Shooters and Fishers Party, sworn and examined and Mr Stephen Larsson, Registered Party Officer, Shooters and Fishers Party, affirmed and examined.

Mr Pitt and Mr Larsson both made opening statements.

The Chair commenced questioning the witnesses, followed by other Members of the Committee.

Mr Pitt and Mr Larsson agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the Chair thanked the witnesses for their attendance, the witnesses withdrew.

Mr Graeme Dunne, The Australian Sex Party, affirmed and examined.

Mr Dunne made an opening statement.

The Chair commenced questioning the witness, followed by other Members of the Committee. Mr Dunne agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee adjourned at 11:44am.

6. \*\*\*

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 18)

12:00 pm, Wednesday, 24 October 2012  
Room 1153, Parliament House

### MEMBERS PRESENT

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Mr Khan, Mr Lynch, Mr Maguire, Dr Phelps and Mr Primrose.

*Staff in attendance:* Ms Rachel Simpson, Mr Rohan Tyler and Ms Emma Matthews.

The Chair opened the meeting at 12:11 pm.

### 1. APOLOGIES

An apology was received from Mr Ward.

### 2. CONFIRMATION OF MINUTES

Resolved, on the motion of Mr Primrose, that the minutes of the deliberative meeting No. 17 be confirmed.

### 3. ADMINISTRATIVE FUNDING FOR MINOR PARTIES INQUIRY.

The Chair noted Legislative Assembly Standing Order 301(3).

Resolved, on the motion of Mr Borsak, to consider the report in globo.

Mr Borsak moved that the draft report be amended by inserting the following words at the end of recommendation 3:

*"The Committee therefore recommends that these reimbursements be paid by way of advance payment (subject to subsequent audit) no later than the 31<sup>st</sup> January each year (commencing in 2013), with effect from the accounting year commencing on the 1<sup>st</sup> January 2012."*

Discussion ensued.

Resolved, on the motion of Mr Borsak, that an additional recommendation be inserted at the end of recommendation 3 as follows:

*"The Committee also recommends that reimbursements be paid quarterly in arrears (and subject to annual audit), commencing in 2013, with reimbursements to be paid within one month of receiving the receipts for administration-related expenditure."*

Discussion ensued. Question put.

Resolved that the Committee adopt recommendation 3 as amended.

Resolved, on the motion of Mr Borsak, that an additional recommendation be inserted at the end of recommendation 4 as follows:

*"The Committee recommends that the new funding formula be applied to administration-related expenditure accrued from 1 January 2012, with reimbursement for 2012 to be paid within a month of submitting final receipts 2012."*

Resolved, on the motion of Dr Phelps, that the Report as amended be the Report of the Committee and that it be signed by the Chair and presented to the House.

Resolved, on the motion of Dr Phelps, that the Chair and the Secretariat be permitted to correct stylistic, typographical and grammatical errors.

Resolved, on the motion of Dr Phelps, that once tabled, the Report be placed on the Committee's website.