

INQUIRY INTO THE 2015 NSW STATE ELECTION

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Despite the detrimental effects that unlimited election spending and undisclosed donations have on the democratic system Governments of both persuasions and at all levels seem reluctant to make any changes in this area. Hopefully this current “Inquiry into the 2015 NSW state election” will recommend changes to the current laws concerning donation disclosure and spending limits. If made would such recommendations be adopted?

Knowing that many candidates favour a more transparent system we decided it was time to launch a pilot project. Tasmania being the only state where candidates for local government have absolutely no disclosure requirements whatsoever we developed a website that allowed candidates in the 2014 Tasmanian local government elections to voluntarily disclose their donations in real time (www.fundinganddisclosure.org.au) .

This was a first for any election held in Australia.

Most candidates didn’t take up the offer despite direct contact and widespread media promotion. We even copped abuse from some candidates who accused us of interfering with the electoral system!

What we did, in fact, was clearly demonstrate how easily and inexpensively it could be done. Those candidates who did choose to disclose their donations clearly demonstrated their commitment to transparency and may well have benefited from this. One of them is now in one of the most powerful LG positions in the state. Those who didn't didn't.

It seems likely that our action and the associated media coverage was a catalyst. At long last the Local Government Association of Tasmania (LGAT) is considering this issue. They now publicly acknowledge that it is inconsistent for Tasmania to be the only state in Australia with no requirement for local government candidates to disclose who funded their campaign and they have committed to developing a policy in this area and “have had preliminary discussions”. The wheels turn slowly.

Currently a committee of the Tasmanian Legislative Council is considering a number of issues relating to the Tasmanian Electoral Commission. Many of the submissions address election

funding, donations and disclosure. There seems to be a general consensus that the current system is wide open to abuse both at local and state government levels. The submission from the Tasmanian Liberal Party stands out from the rest however. It states that they will not support “any changes to donation, spending or disclosure laws which would inevitably lead to litigation – a very unhealthy development for our democracy.” And they have a valid point. There’s no doubt that it is a difficult area to regulate. It’s all very well introducing laws and regulations but how are they to be policed? What if an overseas supporter runs a campaign that is entirely funded and organised from outside Australia? What if donations are handed over in a “brown paper bag”?

Many of these concerns apply nationwide and this lack of timely disclosure is just as relevant in NSW as elsewhere. With candidates not obliged to report any donations under \$1000, and only having to disclose larger donations long after the event, the public is effectively kept in the dark at election time. As we understand the current law in NSW any donations made after the 1st of March and before the election on the 28th need not have yet been disclosed.

This lack of transparency undermines democracy

Surveys consistently show that ever fewer Australians have confidence in our current system

Just because a law is difficult to police does not mean that it should not exist. Income tax laws don’t eliminate the cash economy but at least if you get caught you can be prosecuted. How healthy is it for our democracy to have a situation where candidates can legally accept donations with such minimal and tardy disclosure requirements? This is an obvious recipe for corruption and the temptation must, sometimes and for some people, be irresistible.

Funding & Disclosure (Inc) was formed to lobby for greater transparency in this area.

- We believe that there is no excuse for keeping donations hidden
- There is no longer an impediment to ‘real time’ disclosure.
- We maintain that all political donations above a very modest amount (~\$500) from any one individual or entity should be made via a Political Donations Authority.
- When the donation is then transferred from this trust account to the intended recipient the details should be published online (ie in 'real time').
- Any other donations should be illegal.

This should probably be administered by the appropriate Electoral Commission and would be a simple and relatively inexpensive system to establish and maintain.

Election spending should remain capped in NSW

Currently there is an “arms race” in spending at a federal level and if it’s allowed to escalate we will find ourselves with a US type system where politicians effectively “buy” themselves into power. It may not be that unlimited funds guarantee a position but the lack of very substantial resources certainly precludes it.

One could say that Clive Palmer has demonstrated that we’re already there at the federal level but it's currently still possible to mount a campaign in opposition. If campaign spending increases unabated a time will come when only the extremely wealthy or well-connected will wield power.

F&D supports the spending limits currently imposed in NSW.



Patrick Synge

Public Officer, Funding & Disclosure (Inc)

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