

INQUIRY INTO PUBLIC FUNDING OF ELECTION CAMPAIGNS

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Joint Standing Committee on Electoral Matters

Inquiry into Public Funding of Election Campaign

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Introduction

I have given considerable thought to the type of submission I would make to this inquiry. Rather than made another formal submission, I have decided to summarise main points from earlier submissions and articles and opinion pieces I have co-authored with Greens MP Lee Rhiannon.

I made two submissions to the 2007-8 NSW Electoral and Political Party Funding Inquiry (Numbers 125 and 125a), submitted a paper during my appearance at the NSW 2008 Local Government Election Inquiry¹ and conferred with the NSW Greens on three submissions made to NSW and Federal inquiries. To cover the same material in depth again is redundant and unnecessarily takes the time of the committee.

Therefore, I will summarise the main points I believe should be in any comprehensive reform of the election funding system made in NSW and then focus on certain crucial points I believe this committee should consider.

Major Points to Be Incorporated in a New Election Funding System

- 1) Ban all donations from corporations and other organisations.
- 2) Cap donations from individuals at \$2,000 a year with this cap linked to the CPI.

¹ Document provided by Dr Norman Thompson of The Greens at public hearing on 27 August 2008

<http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/FE00A796C908DCF7CA25763C000E8A1D>

- 3) Cap on expenditure in election campaigns for political parties, candidates and third parties. For state elections expenditure for individual lower house candidates be capped at \$30,000 and the expenditure for a political party running a state wide campaign be capped at \$1 million (not including its candidate's lower house expenditure). These caps should be linked to the CPI and increased yearly in light of increased inflation.
- 4) Public funding be increased as spelled out in the current NSW Greens submission to this inquiry.
- 5) Introduction of publicly funded election advertising during the election campaign period.
- 6) All public funding paid to the political parties.

You will note that I have only discussed reform at the state level in the above and not at the local government level. I agree with Commissioner Colin Barry that local government reform should be put aside and worked through after the 2011 NSW state election.² Most of my recommendations relate to points o and p of the terms of reference.

Points for More Detailed Consideration

For the remaining sections of my submission I would like to focus on issues that I think need greater attention than may be given in many submissions. Some of the issues I discuss here, such as transparency, apply to both the state and local government levels.

Transparency

² Mr Colin Barry Transcript, Hearing 1 09/12/09 Public funding of election campaigns
[http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/4f1e637b0604d9dbca2576900011b61c/\\$FILE/%231%209%20December%202009.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/4f1e637b0604d9dbca2576900011b61c/$FILE/%231%209%20December%202009.pdf)

In order to have a fully informed public it is crucial that there is complete transparency of the source of money parties and candidates receive, as well as their campaign expenditures. Not only must it be complete, it must be timely. Disclosure of this information after an election is of any use to individuals since they have already voted without such important information.

As most people know, the Howard Coalition government increased the federal disclosure threshold in December 2005 from \$1,500 to over \$10,000 linked to the CPI. Currently the disclosure threshold is \$11,200. This means that millions of dollars of donations are not identified each year, making the annual release of donations figures by the Australian Electoral Commission (AEC) almost useless for the general public to understand who is bankrolling our political parties.

An attempt by the Federal Government in 2009 to reduce the disclosure threshold to \$1,000 and not linked to the CPI was blocked in the Senate by the Coalition and Senator Fielding.

The reforms introduced in NSW in 2008 are a vast improvement over the previous disclosure scheme. However, even though donations and expenditure are now disclosed every six months the public still does not know the sources of parties and candidates donations until after the elections. This is a serious flaw in the scheme.

Even candidates, who state they believe it is important for the public to have this information prior to voting, often fail to voluntarily make their donations publicly available prior to election day.³

Recommendation 1 All political donations received during an election campaign must be electronically disclosed to the NSW Election Funding Authority continuously during the campaign and placed on the Authority's web site immediately.

³ Rhiannon, L. & Thompson, N. What are Politicians afraid of? New Matilda, 3 September 2008 <http://newmatilda.com/2008/09/03/what-are-politicians-afraid>

Another problem with the new scheme is that political parties are able to funnel all donations to individual state and local government campaigns through the party's head office and hide the source of money candidates are receiving to fund their campaigns.

The NSW Liberal Party has been the main culprit since they have used this tactic since at least the 2007 NSW state election.⁴ While it is legal, it certainly is a betrayal of the ideal of transparency. This lack of openness feeds into the public's disillusionment with all political parties.

The practice has grave consequences when it happens during local government campaigns. And again, the Liberal Party continued their practice of funnelling donations given to Liberal teams running for NSW councils through their head office for the 2008 NSW local government elections.

If councillors receive a donation over \$1,000 in the previous four years that directly benefits their campaign, they must declare a significant non pecuniary interest in a matter before council from that donor and not engage in discussions of votes on the matter.

Yet, how will the public know if councillors have received donations from donors with matters before council if all such donations are funnelled through head office? One has to totally rely on the good will of those councillors, yet, if the Wollongong affair is any guide then this will not always happen. Also, councillors can forget the source of their private funding, so it is imperative that there are outside checks. * * *

⁴ Rhiannon, L. & Thompson, N. Time to open the books on political donations. Newcastle Herald, 22 October 2009
<http://newsstore.fairfax.com.au/apps/viewDocument.ac;jsessionid=152D6592D9BB2D112005173C97C94378?page=1&sy=smh&kw=norman+thompson&pb=bol&pb=cen&pb=fcn&pb=fcv&pb=ill&pb=nch&dt=selectRange&dr=entire&so=relevance&sf=text&sf=headline&rc=10&rm=200&sp=adv&clsPage=1&docID=NCH091022P1LUB3CHRM>

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In a free society it is only right that the public know exactly who is donating to whom and how much. If we forget this we are endangering the entire democratic process, as well as possibly harming our physical and social environment.

Let me give one example where the decision made by a council may have involved councillors voting for a DA submitted by a donor to their campaign.

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Recommendation 2 All political donations funnelled through political parties in the 2008 local government elections must now be fully disclosed in order to reveal the source and recipient of these donations.

Recommendation 3 All political donations made to individual electorate and council campaigns must be identified as going to those campaigns and not disclosed by the head office of political parties.

The disclosure threshold for identifying donors is too low in the new scheme introduced in 2008.

The Legislative Council Select Committee on Electoral and Political Party Funding recommended the disclosure threshold be \$500. A dissenting statement by The Hon Amanda Fazio and The Hon Michael Veitch recommended the threshold be \$1,000 in order to ensure consistency with the Commonwealth.

We have seen that the Federal Government's move to lower the disclosure threshold to \$1,000 was defeated in the Senate in 2009. Although this passed the House again in 2009, the government never moved the amendment for a second time in the Senate.

Even if the disclosure threshold had passed the Senate, I believe \$1,000 is too high. This is especially true for local government campaigns when small donations can gain access to councillors.

Recommendation 4 The disclosure threshold for all donations should be \$500.

Membership Fees

When all donations from corporations and other organisations are banned and donations from individuals are capped, fees from party membership will be allowed.

Unfortunately we know that when one loophole is closed certain people and parties will attempt to find ways around it. This can happen with fees for party membership. For example, there could be vastly different levels of membership ranging from Bronze to Platinum. The top level could be as high as that in the Liberal Party's Wentworth Forum which is \$55,000.⁷ These top levels could afford greater access to members with party officials at dinners, breakfasts and so on.

Recommendation 5 While political parties can have different levels of party membership, the top level can cost no more than \$1,000.

The affiliation fees unions pay to affiliate with the Labor Party appears to have been the issue that has blocked election funding reform at the federal level.⁸

Dr Joo-Cheong of the University of Melbourne is one of the leading experts in the area of electoral funding in Australia. On a number of occasions he has argued that affiliation fees are different from political donations and should not be banned.⁹

While I can understand his argument, I disagree with his position for two reasons.

The first reason is purely pragmatic. It is difficult to ascertain how much money the Labor Party receives from the unions each year for affiliation fees

⁷ Rhiannon, L. & Thompson, N. No such thing as a free lunch with Turnbull. New Matilda, 15 July 2009 <http://newmatilda.com/2009/07/15/no-such-thing-free-lunch-malcolm-turnbull>

⁸ Millar, R. No reform for political funding. The Age, 13 January 2010 <http://www.theage.com.au/national/no-reform-for-political-funding-20100112-m4px.html>

⁹ Tham, J. C. Union fees to the ALP are a special case The Age, 15 January 2010 <http://www.theage.com.au/opinion/politics/union-fees-to-the-alp-are-a-special-case-20100114-ma0h.html>

and the amount it receives as donations due to the reporting requirements to the AEC. However, even though it is not required to do so, the NSW ALP has separated their union contributions into “Subscription” (affiliation fees) and “Donation” three times in the past 10 years.

Looking at 2007 – 2008 when the party did make that distinction, unions paid over \$1.7 million dollars to the NSWALP in affiliation fees and made a little less than \$500,000 in donations. In this year the disclosure threshold was \$10,500, so any contributions from unions under that amount would not be identified.

I do not think the Liberal Party would agree to the Labor Party continuing to receive such large amounts of money while their corporate donors were banned from contributing. Such a position by the Liberal Party seems totally reasonable.

Secondly, all parties could form associated entities that charge membership fees to individuals to join. For example, such fund raising arms of the NSW Liberal Party could become registered associated entities (unions are currently associated entities under the amendments passed by the Howard government), charge membership fees as the unions do, then pass these fees onto the Liberal Party in order to affiliate with it.