

**Submission
No 28**

INQUIRY INTO PUBLIC FUNDING OF ELECTION CAMPAIGNS

Organisation: Christian Democratic Party

Name: Mr Graham Freemantle

Position: Acting State Manager

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CHRISTIAN DEMOCRATIC PARTY

SUBMISSION

FOR

INQUIRY INTO PUBLIC FUNDING OF ELECTION CAMPAIGNS

27th January 2010

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EXECUTIVE SUMMARY

The Joint Standing Committee on Electoral Matters for the Parliament of NSW is currently conducting an inquiry into a model of public funding for political parties and candidates to apply at the state and local government levels.

A summary of the major recommendations by the Christian Democratic Party made in this Submission is as follows:

1. Under current NSW Legislation, candidates who contest an election or a by-election for the Legislative Assembly or who contest an election for the Legislative Council are eligible for public funding if the candidate gains at least 4% of the total number of first preference votes polled.

CDP submits that this limit should be abolished for candidates in both the Legislative Assembly and Legislative Council elections. This principle should apply to both the “Party” candidates and Independent candidates. Public funding should only be used to reimburse genuine election expenditure with receipts.

2. CDP also recommends that if the Joint Standing Committee recommends that public funding should be provided for Local Government Elections, then the above principles should also apply to Local Government Elections.
3. CDP proposes the following model as a realistic solution which could provide some degree of equity to all candidates, both Party-affiliated and independents.
 - a. Increase each candidate’s nomination fee (to discourage frivolous nominations); then
 - b. Pay **all** candidates public funding based on the number of primary votes that each candidate receives (for reason of equity); **but also**
 - c. Gradually reduce the amount paid as the number of primary votes increases (i.e. a form of “means testing”, but without any “steps” in the payout).
4. CDP believes that Local Government should not be dominated by the major political parties as occurs at present. Thus, a public funding model for Local Government elections should give preference to independent candidates or for candidates from the minor parties.

The CDP supports the concept of public funding of Local Government elections for reasons of equity to the candidates, encouragement to the Independents and consistency between different levels of government.

5. CDP also submits that the model for public funding of State Government Elections should be considered first. When this Model has been established, then the model for Local Government elections should be considered.
6. CDP recommends that all donations be banned, except those of up to \$1,000 per year from individual persons. This would be a major deterrent to the associated political pressure that is asserted when large donations are made by developers, casino operators, liquor suppliers, trade unions, etc.
7. CDP considers that a scheme to limit electronic advertising could be developed that would be consistent with the freedom of political communication provisions in the Australian Constitution.

1. INTRODUCTION

The Joint Standing Committee on Electoral Matters for the Parliament of NSW is currently conducting an inquiry into a model of public funding for political parties and candidates to apply at the state and local government levels.

The Terms of Reference for the Enquiry are that:-

(1) having regard to the June 2008 report of the Legislative Council Select Committee on Electoral and Political Party Funding which recommended, among other things, that all but small donations by individuals be banned and that further consultation be undertaken on increasing public funding of political parties and elections; and

(2) noting that the Government has announced its support for the introduction of a comprehensive public funding model;

the Joint Standing Committee on Electoral Matters is to inquire into a public funding model for political parties and candidates to apply at the state and local government levels.

The Committee is to consider specific issues outlined in the Terms of Reference in Annex A.

This Submission contains the following Sections:-

- Section 2 – The Christian Democratic Party’s submission for each Term of Reference;
- Section 3 – A Summary of the Recommendations proposed by the Christian Democratic Party;

The following Annexes are included in this Submission:-

- Annex A – Inquiry Terms of Reference;
- Annex B – Speech in Parliament on 24 June 2008 by the Reverend the Hon Fred Nile MLC on the Election Funding Amendment (Political Donations and Expenditure) Bill 2008;
- Annex C – Speech in Parliament on 26 November 2008 by the Reverend the Hon Fred Nile MLC on the report of the Select Committee on Electoral and Political Party Funding;
- Annex D – Speech in Parliament on 3 December 2009 by the Reverend the Hon Fred Nile MLC on the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009.

2. SUBMISSION – CHRISTIAN DEMOCRATIC PARTY

The Christian Democratic Party (CDP) makes the following submissions for the issues raised in the Terms of Reference for the Enquiry.

(a) The criteria and thresholds that should apply for eligibility to receive public funding.

Under current NSW Legislation, candidates who contest an election or a by-election for the Legislative Assembly are eligible for public funding if the candidate gains at least 4% of the total number of first preference votes polled in favour of all candidates for the electoral district concerned.

Similarly, candidates who contest an election for the Legislative Council are eligible for public funding if the candidate gains at least 4% of the total number of first preference votes polled in the election.

CDP submits to the Enquiry that this limit should be abolished for candidates in both the Legislative Assembly and Legislative Council elections. This principle should apply to both the “Party” candidates and Independent candidates. Public funding should only be used to reimburse genuine election expenditure with receipts.

CDP also submits that if the Joint Standing Committee recommends that public funding should be provided for Local Government Elections, then these principles should also apply to Local Government Elections.

In support of this submission, we refer to the comments made to the Joint Standing Committee on 9 Dec 2009 by Mr Colin Barry, NSW Electoral Commissioner and Chair, Election Funding Authority, which is on website:

[http://www.parliament.nsw.gov.au/Prod/parlament/committee.nsf/0/4f1e637b0604d9dbca2576900011b61c/\\$FILE/%231%209%20December%202009.pdf](http://www.parliament.nsw.gov.au/Prod/parlament/committee.nsf/0/4f1e637b0604d9dbca2576900011b61c/$FILE/%231%209%20December%202009.pdf)

In his address, Mr Barry stated that there were four foundational pillars for a model for public funding:-

1. protecting the integrity of representative government;
2. promoting fairness in politics;
3. supporting parties to perform their functions; and
4. respect for political freedoms.

With respect to the second foundational pillar of promoting fairness in politics, Mr Barry commented:

“It has been argued that political equality is at the heart of democracy. Indeed, the Australian Constitution has an underlying principle that citizens have “each a share, and equal share, in political power”. The principle of political equality insists not only that political freedoms be formally available to all citizens, but also that they have a genuine chance to make a difference. They must have leverage. In our complex democracy such leverage is the ability to act as a group. There are very few cases at the State parliamentary level where a citizen of ordinary means can have

political leverage in their own right. It is only through groups or parties in a formal sense that citizens can muster political power.

“In order to have leverage, citizens need access to the public space and the forums in which public opinion is voiced. Nowadays leverage is achieved by having access to the mass media, which in itself is finite space. We have seen instances where the financial strength of some can drown out the voice of others. The objective of having a genuine chance to make a difference is weakened where the financial might of a few make it impossible for others to be heard. The political finance regime should attempt to address this risk.”

With respect to the third foundational pillar of supporting of parties to perform their functions, Mr Barry makes the following comment:

“There is no doubt that political parties are the major players in the Australian representative democracy. They are the main opinion framers and the agenda setters. At Federal and State levels the Parliaments are Party Chambers. The lawmakers are Party members and, without doubt, the majority of people who participate in politics in Australia do so through the party system. The parties are central to our system of representative democracy, and in moving forward they will remain as such well into the future. Consequently, the political finance framework that the Committee recommends should acknowledge the key role played by the political parties. The parties need to be appropriately funded in order for them to fulfil their functions as a Party. This does not translate into giving Parties what they think they need; it is more fundamental than this. It is to provide parties with adequate funding in order for them to do what Parties ought to perform.”

Mr Barry then comments on a discussion of the functions of political parties in our representative democracy provided by Dr Joo-Cheong Tham:

“He suggests that parties in a modern representative democracy should, first, play a representative function by representing the diverse opinions in New South Wales – the party platforms should offer genuine choice and cater for different opinions; second, the parties also should perform the function of agenda setting, by raising issues for debate and presenting ideas for consideration; third, play a participatory role by being a vehicle for citizens to become involved in the political process, debate and agenda setting; and, fourth, parties perform a governance role when their members are elected to office.

“In all of these functions the principle of pluralism is implicit. The parties should provide citizens with a variety of opportunities to participate in the process. At the macro level, for pluralism to exist parties will be based on diverse structures. The diversity of party structures should be respected. If this is accepted as the legitimate functions of political parties, then parties should be financed to do the things that are considered important to the health of our representative democratic system. The funding regime will need to be sufficiently flexible to enable parties to be financed on the basis of their activities in these key areas, not just on what the parties themselves consider is necessary.”

CDP is in general agreement with the comments of the NSW Electoral Commissioner and believes that the current criteria for a candidate to gain at least 4% of the total number of first preference votes should be abolished in order to promote fairness in politics and to support registered political parties to perform their functions.

(b) The manner in which public funding should be calculated and allocated, including whether it should take into account first preference votes, parliamentary representation, party membership subscriptions, individual donations and/or other criteria.

CDP refers to the following comments made to the Joint Standing Committee on 9 Dec 2009 by Mr Colin Barry, NSW Electoral Commissioner and Chair, Election Funding Authority:

“Simply funding parties only on the basis of votes received at the most recent election may not be appropriate; it may be too restrictive. The Committee may wish to consider including in the mix of funding such things as membership numbers, and special grants for policy development, training of officials and public information, all of which would assist parties to fulfil their functions.”

Hence, CDP proposes the following model as a realistic solution which could provide a degree of equity to all candidates, both Party-affiliated and independents.

1. Increase each candidate’s nomination fee (to discourage frivolous nominations); then
2. Pay **all** candidates public funding based on the number of primary votes that each candidate receives (for reason of equity); **but also**
3. Gradually reduce the amount paid as the number of primary votes increases (i.e. a form of “means testing”, but without any “steps” in the payout).

A simple example of this proposal (using whole numbers) to illustrate the principle of the model could be:-

1. Candidate nomination fee = \$500
2. Public funding per vote = \$2 (say)
3. Reduction rate = 40% (say) on the percentage of primary votes received by each candidate. Hence, when candidates in an electorate of 50,000 voters (say), receives the following votes, the public funding would be :-
 - 0.2% of the votes (i.e. 100 votes),
 $\$2 \times 100 - \text{reduction} = \$200 - (\$200 \times 0.2\% \times 40\%) = \$200.$
 - 2% of the votes (i.e. 1,000 votes),
 $\$2 \times 1,000 - \text{reduction} = \$2,000 - (\$2,000 \times 2\% \times 40\%) = \$1,984.$
 - 20% of the votes (i.e. 10,000 votes),
 $\$2 \times 10,000 - \text{reduction} = \$20,000 - (\$20,000 \times 20\% \times 40\%) = \$18,400.$
 - 40% of the votes (i.e. 20,000 votes),
 $\$2 \times 20,000 - \text{reduction} = \$40,000 - (\$40,000 \times 40\% \times 40\%) = \$33,600.$
 - 60% of the votes (i.e. 30,000 votes),
 $\$2 \times 30,000 - \text{reduction} = \$60,000 - (\$60,000 \times 60\% \times 40\%) = \$45,600.$

Where the candidate of a Major Party has an outright win (i.e. greater than 50%), then the public funding gets noticeably less, and it could be reasonably argued that their success demonstrates the lack of need for proportionally greater funding. However, those

candidates with only a small % of the votes would all get funding approximately proportional to the votes they received.

One final point for consideration is that the public funding for a candidate should be limited to no more than 50% + 1 vote. The reason is that, in some seats where an outright win is historically normal, a significant amount of election expenditure may be considered unnecessary because the candidate will win anyway.

CDP's comment on whether public funding should take into account party membership subscriptions. We submit that any funding model based on the number of Party members is open to manipulation unless the membership fees charged and the duration of membership are realistic. For example, it is possible for a party to offer free membership and/or sign-up members just before the Election Commission's closing date for Party Registration.

(c) Any caps that should apply, including whether there should be an overall cap on public funding and/or caps on funding of each individual party or candidate either absolutely or as a proportion of their total campaign expenditure or fundraising.

A Cap on Public Funding

Capping of public funding should be considered, particularly if the winning candidate receives a very high % of the votes (i.e. > 50% primary votes). Our response in Part (b) above, describes one realistic proposal for reducing (or capping) the payout as the % of votes gets very high.

At present, the winning candidate receives the greatest payout; and the greater the win, then proportionally greater will be the payout. When this happens, CDP would argue that excessive public funding to one candidate (or Party) is not in the public's best interest, because while the winner takes more, the opposition candidates are further disadvantaged and financially discouraged to compete again next time.

CDP would prefer a cap on public funding, which can be achieved by increasing the "reduction rate" towards 55.55% in the model described in Part (b) above.

At this point (mathematically), a maximum payout is reached – irrespective of how great is the % of votes. (Aside – above this value, the payout starts to reduce as the number of votes a candidate receives increases above approx 60% of the total votes.)

A Cap on Private Funding

The level of Private Funding is a significant matter – particularly for the major parties. Although it is a very significant and necessary source of funding for them in the lead-up to an election, it is also the main source of corruption. Developers and other business interests use it as an opportunity to "buy" favourable consideration on a particular matter.

For anyone to claim that this does not often happen, is only to avoid answering the obvious question: "Why make the (significant) donation in the first place?"

The issue of business donations goes further, because businesses ultimately feel obliged to make regular donations as their competitors do, otherwise there is the fear that they might suffer. (Same principle as hotel guests tipping the waiters.)

In supporting an Election Funding and Disclosures Amendment Bill 2009, CDP's leader Hon Fred Nile MLC has recently stated in a press release dated 4-12-09:

"That was the problem. Developers made donations to both sides of politics, sometimes unwillingly because it became the culture and they were expected to make donations. During inquiries into electoral funding that I have chaired, developers have said they would be pleased to have the ban on donations because it would save them hundreds of thousands of dollars in the future. Many feel under pressure to give donations, usually to the Government but also to the Opposition. Developers do not oppose the bill in principle, although they may criticise certain aspects of it, because it would save them money. In addition, if genuine companies made a donation and the development were approved, the assumption would be made that the donation influenced the development approval. That is the dilemma if donations are allowed. This bill will clear the air to prevent donations influencing development approvals.

Hence, CDP proposes that there be a ban on all donations to political parties (i.e. from developers, commercial and other business), but donations of up to \$1,000 per year by individuals be allowed.

Hence in a 4 year electoral term, a person could donate \$4,000 (or twice this amount if the spouse donated also). That should also have little impact on the major parties but will allow the minor parties and Independents, who depend on small donations, to continue to be part of the democratic process.

A Cap on Party Expenditure

When the public funding payout is limited, and donations are limited as described above (i.e. – no corporate donations, and only individuals up to \$1,000 each per annum), then the funds the major parties have available for campaign expenditure would be reduced anyway.

Colin Barry also refers to the public funding model used since 1993 in New Zealand involves capping expenditure by Political Parties. CDP refers the Joint Select Committee to a paper on the NZ model prepared by Andrew Geddis, Faculty of Law, University of Otago is on website:

http://www.democraticaudit.anu.edu.au/papers/20070302_geddis_fundnselect.pdf

This paper outlines the deficiencies of the NZ model and should be carefully considered by the Joint Select Committee.

CDP generally supports the comments made in this paper.

(d) The persons to whom the public funding should be paid, including whether it should be paid directly to candidates or to political parties.

Where a candidate stands for election on behalf of political party, then the public funding should be paid to that Party. However, when candidates are truly independent and are responsible for meeting all the costs associated with promoting themselves, then they are reasonably and realistically entitled to receive the public funding entitlement as a personal payment, which of course becomes assessable for income tax purposes. (Note – this assessable income would normally be offset by the candidate's electioneering expenses.)

(e) The mechanisms for paying public funding, including the timing of payments.

Mechanisms for the payment of public funding include electronic transfer into the political party's or independent candidate's nominated bank account. The time for payment should be as soon as administratively practical after the final results of the election are known.

(f) Whether any restrictions should be imposed on the expenditure of public funding and, if so, what restrictions should apply and how should the expenditure of public funding be monitored.

At this point, it is assumed that all candidates who have just stood in an election are legally confirmed as eligible to do so. If this is so, then there should be no other reasons why payment should not proceed in a timely manner. However, should the Electoral Commissioner suspect or be investigating any corruption, vote-rigging or other criminal activity, then payments for all candidates should be placed on-hold until investigations are completed.

(g) Whether any restrictions should be imposed on expenditure by political parties and candidates more generally and, if so, what restrictions should apply and how should expenditure be monitored.

We have previously made reference to a paper which discusses the deficiencies in the New Zealand public funding model which involves capping expenditure by Political Parties.

In summary, it suggests that having laws and regulations to limit expenditure is not going to stop problems occurring. To stop the "problem" at its source is the preferred option, and limiting the amount of political funding is a positive step.

(h) How public funding should apply as part of the broader scheme under which political donations are banned or capped.

The Rev Hon Fred Nile MLC made a speech in Parliament on 3 Dec 2009 on the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009, which is given in Annex D. We refer to the following comments made by Rev Nile in his speech:-

"Premier Rees stated – I assume those statements will be supported by the new Premier as government policy – that the ban on developer donations is a first step. The Government decided to reform the process in stages and I understand that a number of Government members also stated in the agreement in principle debate in the other place that this bill was the first stage. We are all keen to progress in this direction to prohibit all donations. ... The next stage includes a total ban that will

include casinos, tobacco companies, the liquor industry and the like, which I would support.

“I urge the Government in presenting its new image to the public, in its own interests and reputation and to remove any accusations of corruption, to move urgently to that next stage. Therefore, in the New Year when Parliament resumes, the Government should introduce another bill into the Upper House for debate.”

Rev Nile then concluded:

“I note that the Urban Taskforce (the body representing developers and others in this State) supports this ban but wants the ban on donations to be right across the board to cover all businesses, trade unions, individuals and non-government organisations. That was a recommendation of the Select Committee on Electoral and Political Party Funding that I chaired.”

CDP thus submits that all donations be banned, except those of up to \$1,000 per year from individual persons. This would be a major deterrent to the associated political pressure that is asserted when large donations are made by developers, casino operators, liquor suppliers, trade unions, etc.

Donations “in kind” must also be included in the limitation of personal donations to \$1,000 per year. For example, seats to attend a dinner function with the Premier at \$10,000 each (for example) is a simple way for business interests to circumvent the proposed limit on donations to personal ones only up to \$1,000 pa.

Consideration should also be given to the question - is it the limit for tax deductibility purposes or is it a personal limit? It should be noted, for example, that a person could donate anonymously far more than this amount if they wished (e.g. by placing a bundle of notes in the donation box at the end of a political meeting).

(i) Whether there should be any regulation of expenditure by third parties on political advertising or communication.

Apart from the normal restrictions that apply relating to decency, and the use of offensive, foul or blasphemous language (spoken or printed), there must also be reasonable truth in political advertising during an election campaign.

While it is acknowledged that the full truthfulness of some claims made by Parties about their opponents may be doubtful, there have also been occasions when political adverts make claims that are outright deceptive, mischievous, or libellous in nature.

This type of advertising must be stopped. One solution would be to have a viewing by an independent person before a political advertisement went to air or the press. Any contentious part could be referred to an Opposition representative for comment and to show cause why the advert should be stopped.

(j) Whether there should be any additional regulation to ensure that government public information advertising is not used for partisan political purposes.

Within the federal environment, the Opposition would normally be the watch-dog to make a complaint about the Government’s misuse of funds on advertising for partisan political purposes.

The same opportunities would exist in the State environment, but it is probable that the media does not pick-up on it so readily, and so it is perceived that additional regulation may be needed.

The abuse of government advertising to promote their political party should be referred to the NSW Ombudsman to investigate and report.

(k) Any implications arising from the federal nature of Australia's system of government and its political parties, including in relation to intra-party transfers of funds from federal and other state/territory units of political parties.

As noted above in paper on the NZ model prepared by Andrew Geddis, Faculty of Law, University of Otago, there appears to be no limit to the ingenuity of mankind when it comes to circumventing rules about almost anything, including rules related to electoral funding. In short, someone will find a way to circumvent them – either legally or otherwise, and the effective enforcement of them at some later stage is often doubtful (and those who break the rules know it).

Accordingly, CDP would propose that the number of regulations related to political campaign spending be minimised. As proposed in (b) and (c) above, limitations should be placed on the levels of election funding to major parties by capping their public funding and prohibiting all donations except from individuals up to \$1,000. Only then will there be a significant reduction in funds for the “big players”, and the need for regulations to limit their spending will disappear.

In addition, there must be penalties for the transfer of party donations which is carried so as to reveal the original donor.

(l) What provisions should be included in order to prevent avoidance and circumvention of any limits imposed by a public funding scheme.

ICAC should have a watching brief on election public funding to prevent abuse.

(m) The compatibility of any proposed measures with the freedom of political communication that is implied under the Commonwealth Constitution.

In his submission to the Enquiry, Prof George Williams, Faculty of Law, University of NSW stated that an attempt to limit electronic and other forms of advertising was struck down in 1992 by the High Court which found that the particular scheme before the Court contradicted the freedom of political communication provisions in the Australian Constitution.

CDP agrees with Prof Williams, but would support the development of a scheme to limit electronic advertising while still being consistent with our constitutional freedoms. CDP also agrees with the following statement by Prof Williams:

“Reform of electronic advertising should be undertaken because any cap on donations or expenditure is unlikely to be effective unless the demand for funds by political parties and candidates is also reduced.”

However, at this stage unfortunately, CDP is not able to comment on any proposed measures to limit this.

(n) The impact of any proposed measures on the ability of new candidates, including independent candidates and new political groupings, to contest elections.

CDP considers that there would be a benefit to new candidates, including independent candidates, providing all parts of CDP’s proposal were implemented. In particular, there would be:-

- a discouragement for any frivolous candidates.
- less of a financial gap (overall),
- Slightly more funding available (relatively) for the new-comers and independents.

(o) Any relevant reports and recommendations previously made by the Select Committee on Electoral and Political Party Funding.

CDP Parliamentary Leader, Rev the Hon Fred Nile MLC was the Chairman of the Select Committee on Electoral and Political Party Funding which reported its findings in March 2008.

Rev Nile made speeches in Parliament on the findings of the Select Committee on 24 June 2008 and 26 November 2008, which are given in Annex B and Annex C. We refer these speeches to Committee Members for consideration in this Enquiry.

In particular, we refer to the following comment made by Rev Nile in his speech on the Election Funding Amendment (Political Donations and Expenditure) Bill 2008:

“As an interim first-stage reform this bill goes a long way to meeting the concerns of the Christian Democratic Party and the community. I look forward to the second stage reforms later in the year, perhaps in October, which will deal with the more controversial area of a ban on donations.”

In his speech on the report of the Select Committee on Electoral and Political Party Funding, Rev Nile made the following comments:

“As members know, following the report the Government commissioned a report by Dr Anne Twomey, Associate Professor of the University of Sydney Law School. ... “

“It is important that there be reforms and the report of Dr Twomey should not stop those reforms from going ahead. New South Wales has taken the lead in the past; it should take the lead now and in the future—particularly as the leaders of the Labor Party, the Liberal Party and The Nationals have supported reform. There is unanimous support across the Parliament that something should be done. As members know, the key recommendation was that all donations be banned, except those of up to \$1,000. In her report, the professor said that it would be impossible to

have an outright ban on all political donations as it would be struck down as constitutionally invalid. That was never proposed or recommended by the Committee. There would always be donations; it was a question of capping donations. The committee recommended \$1,000, which may be varied in future legislation, but the point was that the amount should be small enough that it would not constitute corruption.

“Dr Twomey also raised confusion between Federal and State elections. I know that that is a factor, but I do not believe it is enough to say, "Let's stop and do nothing". ... We simply need a system where donations must be clearly identified by the donor to be for a State election, and those donations would be capped through the legislation. If they wished to make a donation to a Federal election they would have to designate that it was for a Federal election, and it may not be capped at that point. I do not believe that is sufficient reason not to proceed with the recommended legislation and the recommended cap.”

CDP supports the key recommendation of the Select Committee on Electoral and Political Party Funding that all donations be banned, except those of up to \$1,000 per year for individual persons. This would be a major deterrent to the associated political pressure that is asserted when large donations are made by developers, casino operators, liquor suppliers, trade unions, etc.

(p) Any other related matters.

The TOR stated that the “*Joint Standing Committee on Electoral Matters is to inquire into a public funding model for political parties and candidates to apply at the state and local government levels.*” However, there is no reference to a public funding model for Local Government elections in the TOR sections above.

CDP believes that Local Government should not be dominated by the major political parties as occurs at present. Thus, a public funding model for Local Government elections should give preference to independent candidates or for candidates from the minor parties.

CDP also submits that the model it proposed for public funding of State Government Elections should be considered first. When this Model (or some variation on it) has been established, the model for Local Government elections should then be considered.

The CDP supports the concept of public funding of Local Government elections for reasons of equity to the candidates, encouragement to the Independents (most of who are “loners”), and consistency between different levels of government. This is providing the proposals described in (b) and (c) above apply – i.e. public funding payouts are limited (by capping, for example), and donations are limited to \$1,000 per person only each per year.

3. RECOMMENDATIONS

A summary of the major recommendations by the Christian Democratic Party made in this Submission is as follows:

1. Under current NSW Legislation, candidates who contest an election or a by-election for the Legislative Assembly are eligible for public funding if the candidate gains at least 4% of the total number of first preference votes polled in favour of all candidates for the electoral district concerned.

Similarly, candidates who contest an election for the Legislative Council are eligible for public funding if the candidate gains at least 4% of the total number of first preference votes polled in the election.

CDP submits that this limit should be abolished for candidates in both the Legislative Assembly and Legislative Council elections. This principle should apply to both the "Party" candidates and Independent candidates. Public funding should only be used to reimburse genuine election expenditure with receipts.

2. CDP also recommends that if the Joint Standing Committee recommends that public funding should be provided for Local Government Elections, then the above principles should also apply to Local Government Elections.
3. CDP proposes the following model as one realistic solution which could provide some degree of equity to all candidates, both Party-affiliated and independents.
 - a. Increase each candidate's nomination fee (to discourage frivolous nominations); then
 - b. Pay **all** candidates public funding based on the number of primary votes that each candidate receives (for reason of equity); **but also**
 - c. Gradually reduce the amount paid as the number of primary votes increases (i.e. a form of "means testing", but without any "steps" in the payout).
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The CDP supports the concept of public funding of Local Government elections for reasons of equity to the candidates, encouragement to the Independents and consistency between different levels of government.

5. CDP also submits that the model for public funding of State Government Elections should be considered first. When this Model has been established, the model for Local Government elections should then be considered.
6. CDP recommends that all donations be banned, except those of up to \$1,000 per year from individual persons. This would be a major deterrent to the associated political pressure that is asserted when large donations are made by developers, casino operators, liquor suppliers, trade unions, etc.
7. CDP agrees with Prof George Williams, Faculty of Law, University of NSW that a scheme to limit electronic advertising could be developed that would be consistent with the freedom of political communication provisions in the Australian Constitution.

ANNEX A

TERMS OF REFERENCE

PARLIAMENT OF NEW SOUTH WALES

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Inquiry into public funding of election campaigns

Terms of Reference

That:

- (1) having regard to the June 2008 report of the Legislative Council Select Committee on Electoral and Political Party Funding which recommended, among other things, that all but small donations by individuals be banned and that further consultation be undertaken on increasing public funding of political parties and elections; and
- (2) noting that the Government has announced its support for the introduction of a comprehensive public funding model;

the Joint Standing Committee on Electoral Matters is to inquire into a public funding model for political parties and candidates to apply at the state and local government levels.

The Committee is to consider the following:

- (a) the criteria and thresholds that should apply for eligibility to receive public funding;
- (b) the manner in which public funding should be calculated and allocated, including whether it should take into account first preference votes, parliamentary representation, party membership subscriptions, individual donations and/or other criteria;
- (c) any caps that should apply, including whether there should be an overall cap on public funding and/or caps on funding of each individual party or candidate either absolutely or as a proportion of their total campaign expenditure or fundraising;
- (d) the persons to whom the public funding should be paid, including whether it should be paid directly to candidates or to political parties;
- (e) the mechanisms for paying public funding, including the timing of payments;

- (f) whether any restrictions should be imposed on the expenditure of public funding and, if so, what restrictions should apply and how should the expenditure of public funding be monitored;
- (g) whether any restrictions should be imposed on expenditure by political parties and candidates more generally and, if so, what restrictions should apply and how should expenditure be monitored;
- (h) how public funding should apply as part of the broader scheme under which political donations are banned or capped;
- (i) whether there should be any regulation of expenditure by third parties on political advertising or communication;
- (j) whether there should be any additional regulation to ensure that government public information advertising is not used for partisan political purposes;
- (k) any implications arising from the federal nature of Australia's system of government and its political parties, including in relation to intra-party transfers of funds from federal and other state/territory units of political parties;
- (l) what provisions should be included in order to prevent avoidance and circumvention of any limits imposed by a public funding scheme;
- (m) the compatibility of any proposed measures with the freedom of political communication that is implied under the Commonwealth Constitution;
- (n) the impact of any proposed measures on the ability of new candidates, including independent candidates and new political groupings, to contest elections;
- (o) any relevant reports and recommendations previously made by the Select Committee on Electoral and Political Party Funding; and
- (p) any other related matters.

The Committee is to report by 12 March 2010.

Committee Membership

Mr Robert Furolo (Chair) (Australian Labor Party)
The Hon Diane Beamer MP (Australian Labor Party)
Mr Robert Coombs MP (Australian Labor Party)
The Hon Mick Veitch MLC (Australian Labor Party)
The Hon Don Harwin MLC (Liberal Party)
The Hon Jenny Gardiner MLC (The Nationals)
Ms Lee Rhiannon MLC (Greens)

ANNEX B**ELECTION FUNDING AMENDMENT (POLITICAL DONATIONS AND EXPENDITURE) BILL 2008****SPEECH – REV HON FRED NILE**

Reverend the Hon FRED NILE [11.50 pm]: The Christian Democratic Party is pleased to support the Election Funding Amendment (Political Donations and Expenditure) Bill 2008 and the Local Government and Planning Legislation Amendment (Political Donations) Bill 2008. As members know, in February the Premier announced wide-ranging reforms to laws governing the management and disclosure of political donations and expenditure. In the following weeks the Premier made further announcements. This legislation gives effect to the Premier's initial announcements but they do not relate to a ban on political donations. As members, know the Parliament also established a select committee, which I chaired, to investigate the issue of electoral funding donations. This bill is an interim measure in electoral reform: it is not the end result but it is the beginning. The Government in its briefing announced that it had commissioned Associate Professor Anne Twomey, a leading expert in constitutional electoral law, to prepare a paper outlining the key issues that needed to be addressed in the next stage of donations reform.

The committee indicated that there may be constitutional questions in relation to a total ban on donations, a cap on expenditure and so on. We know that previous matters have been taken to the High Court and we know that any reforms in legislation that we adopt must be able to stand up to scrutiny if appealed in the High Court. This bill is an interim stage in electoral reform. The committee made 47 recommendations and covered a very detailed and extensive range of issues. I look forward, perhaps in October, to see the second stage of reform that will deal with the more controversial issue of a total ban on donations, or a restriction, as the committee recommended, of donations up to \$1,000 from individuals to remove any threat of donations influencing the political agenda at either the State or local government level.

This bill is needed now because the House rises this week and will not resume until after the local government elections in September. This bill is necessary if the Government wants to remove the potential danger of donations influencing council decisions and the election in September. I understand the Government's strategy to introduce this first stage in electoral reform and, of necessity, a second stage. A number of important provisions are contained in this legislation to tighten up areas of disclosure, particularly the universal disclosure limit of \$1,000 for parties, groups, elected members, including members of Parliament and councillors, candidates and donors, consistent with the Commonwealth Government's proposed legislation. The Rudd Government has initiated its own reform, as was announced prior to the last Federal election. Senator Faulkner has led to establish a lower limit for disclosure than previously put in place by the Howard Government and has introduced other proposals that allow for greater disclosure and represent the wider views of the community.

The bill also requires disclosure of donations received in the period since the last election to 30 June 2008 by 25 August 2008, before the local government elections. Local government candidates have already begun campaigning and receiving donations but this requirement will only take effect from 25 August. There will also be biannual disclosure of political donations and expenditure for parties, groups, elected members, candidates and donors. Declarations will be required to be lodged within eight weeks of the end of the relevant disclosure period, consistent with the Commonwealth Government's proposed legislation. There are new rules

for the management of campaign finances which will: prevent members, groups and candidates from handling donations, with all donations to be received and administered by an official agent who will be appointed by the party or Independent candidates. It will not take away their authority but someone other than the candidate will handle donations and expenditure. If the official agent is not an accountant, he or she will be trained by the Election Funding Authority. I believe those practical provisions are very important.

Some of the recommendations contained in the committee report have been included in this initial reform bill, for example, a ban on certain in-kind donations valued at \$1,000 or more, including the provision of offices, cars and other equipment for little or no consideration; volunteer labour and the incidental use of equipment which belongs to volunteers is excluded from the ban; and provisions which make it unlawful to accept a reportable political donation that exceeds the \$1,000 threshold unless it is made by an entity that has an Australia business number or by an individual. The bill will also tighten up the provisions relating to loans and provides increased maximum penalties for a range of offences, which I also support. As an interim first-stage reform this bill goes a long way to meeting the concerns of the Christian Democratic Party and the community. I look forward to the second stage reforms later in the year, perhaps in October, which will deal with the more controversial area of a ban on donations.

(Source: Hansard, 24 June 2008

<http://www.parliament.nsw.gov.au/Prod/parlament/hansart.nsf/V3Key/LC20080624045>)

ANNEX C
SELECT COMMITTEE ON ELECTORAL AND POLITICAL PARTY FUNDING

SPEECH – REV HON FRED NILE

Reverend the Hon FRED NILE [2.40 p.m.], in reply: I am pleased to speak in reply to the debate on the report of the Select Committee on Electoral and Political Party Funding. I thank the speakers who have taken part in the debate, many of whom served on the committee that produced the report, that is, the Hon. Don Harwin, the Hon. Amanda Fazio, the Hon. Jennifer Gardiner, Ms Lee Rhiannon and the Hon Michael Veitch. I thank them for their thoughtful contributions to this debate.

As members know, following the report the Government commissioned a report by Dr Anne Twomey, Associate Professor of the University of Sydney Law School. The paper was prepared for the Department of Premier and Cabinet of New South Wales and was presented in November 2008. It is headed, "The reform of political donations, expenditure and funding". When a number of the committee's recommendations were adopted, words to the following effect were added to the recommendations: "Subject to not in any way impinging on the Commonwealth or State Constitutions". At that stage the committee had no knowledge of whether the recommendations would clash with those Constitutions. The Government authorised the inquiry, which unfortunately from our point of view has upheld a number of matters, claiming that there would be potential danger that if matters went to the High Court the court would rule that the legislation passed by the Parliament of New South Wales was invalid.

I have looked at the professor's report. In my view, a lot of it is speculation with wording such as, "This might happen" or "This could happen". I do not believe that the Government should be bound by this paper to overthrow the parliamentary committee's report and recommendations. If it were, there would be no reform of the electoral funding donations process in New South Wales at all, and I believe the obligation is on New South Wales. It has recognised that there is a problem with donations and there has been corruption, for example in relation to Wollongong council and possibly other areas of the State.

It is important that there be reforms and the report of Dr Twomey should not stop those reforms from going ahead. New South Wales has taken the lead in the past; it should take the lead now and in the future—particularly as the leaders of the Labor Party, the Liberal Party and The Nationals have supported reform. There is unanimous support across the Parliament that something should be done. As members know, the key recommendation was that all donations be banned, except those of up to \$1,000. In her report, the professor said that it would be impossible to have an outright ban on all political donations as it would be struck down as constitutionally invalid. That was never proposed or recommended by the Committee. There would always be donations; it was a question of capping donations. The committee recommended \$1,000, which may be varied in future legislation, but the point was that the amount should be small enough that it would not constitute corruption. There would not be donations of \$20,000, \$50,000 or \$100,000 by individuals or corporations. I believe that the professor has put up a straw man argument as one of her objections.

Dr Twomey also raised confusion between Federal and State elections. I know that that is a factor, but I do not believe it is enough to say, "Let's stop and do nothing". It would take skill to separate donations made to political parties for a State election as distinct from a Federal election. We would simply need a system where donations must be clearly identified by the

donor to be for a State election, and those donations would be capped through the legislation. If they wished to make a donation to a Federal election they would have to designate that it was for a Federal election, and it may not be capped at that point. I do not believe that is sufficient reason not to proceed with the recommended legislation and the recommended cap. It must be possible for intelligent people to work out how this could be legislated. I believe it can be done.

In relation to the cap, the professor raised the fear that someone will go to the High Court. Who is going to go to the High Court? Is some corporation going to say, "We want to donate hundreds of thousands of dollars and you are stopping us"? All the corporations and big businesses have agreed that they want a cap. They want to get off the hook. They want to get out of the area of criticism. They do not want to give large donations. As I understand it, they have accepted the premise of a cap, so who would be going to the High Court? No citizen would go to the High Court because citizens—and this was proved during our inquiry—want a cap. As far as I can see, it is a straw man argument that there is going to be great controversy in the High Court with companies or political parties that will challenge it. The political parties agree with the cap, corporations agree with the cap and citizens agree with the cap. Who is going to take it to the High Court? Even if the High Court upheld an objection, and I believe that the High Court would support our proposition of a cap that would not ban all donations or affect the freedom of citizens. Citizens may give, but only up to that amount of money.

I plead with Premier Nathan Rees not to be deterred by the professor's report but to pursue the preparation of legislation and let New South Wales take the lead. If it is challenged in the High Court, so be it, but let us at least attempt to fulfil the wishes of the citizens of this State as well as all political parties. We have unanimous support. Let us move ahead and let New South Wales take the lead. I thank the committee members and the secretariat for their work, and those who have participated in the debate in this House. I commend the report for immediate action by the Government.

(Source: Hansard, 26 November 2008

<http://www.parliament.nsw.gov.au/Prod/parlment/hansart.nsf/V3Key/LC20081126035>)

ANNEX D**ELECTION FUNDING AND DISCLOSURES AMENDMENT
(PROPERTY DEVELOPERS PROHIBITION) BILL 2009****SPEECH – REV HON FRED NILE**

Reverend the Hon FRED NILE [8.41 p.m.]: I am pleased to speak in support of the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. I am pleased I was able to return from a family funeral on my wife's side in Brisbane in time to speak on the bill. I have just returned from the airport and I have learned of the change of Premier. I congratulate the Hon. Kristina Keneally on being elected as Premier of New South Wales by the Labor caucus. Apparently the vote was 47 to 21, which is an overwhelming vote of support. I hope this will allow the Government to move forward with unity and efficiency. Kristina Keneally was often under attack by the media and by the Opposition over whether she was influenced by donations. She always angrily replied that everyone should prove the allegation.

That was the problem. Developers made donations to both sides of politics, sometimes unwillingly because it became the culture and they were expected to make donations. During inquiries into electoral funding that I have chaired developers have said they would be pleased to have the ban on donations because it would save them hundreds of thousands of dollars in the future. Many feel under pressure to give donations, usually to the Government but also to the Opposition. Developers do not oppose the bill in principle, although they may criticise certain aspects of it, because it would save them money. In addition, if genuine companies made a donation and the development were approved, the assumption would be made that the donation influenced the development approval. That is the dilemma if donations are allowed. This bill will clear the air to prevent donations influencing development approvals.

The committee I chaired was unanimous in supporting not merely a ban on development donations but a ban on all donations except donations of up to \$1,000 per year by individuals. So in a four-year electoral term a person could donate \$4,000. That will have little impact on the major parties but will allow the minor parties and Independents, who depend on small donations, to continue to be part of the democratic process. Premier Rees stated—I assume those statements will be supported by the new Premier as government policy—that the ban on developer donations is a first step. The Government decided to reform the process in stages and I understand that a number of Government members also stated in the agreement in principle debate in the other place that this bill was the first stage. We are all keen to progress in this direction to prohibit all donations. To do so would solve the genuine concerns raised by the Greens that other bodies may not be picked up by the legislation. The next stage includes a total ban that will include casinos, tobacco companies, the liquor industry and the like, which I would support.

I urge the Government in presenting its new image to the public, in its own interests and reputation and to remove any accusations of corruption, to move urgently to that next stage. Therefore, in the New Year when Parliament resumes, the Government should introduce another bill into the upper House for debate. The Electoral Funding and Disclosures Amendment (Property Developers Prohibition) Bill will amend the Election Funding and Disclosures Act 1981 to make it unlawful for a property developer or a person acting on behalf of the property developer to make a political donation. It will make it unlawful for a property developer to solicit another person to make a political donation. It will also make it

unlawful for a person to accept a political donation knowing that it has come from a property developer. The bill will provide a mechanism to enable a determination to be sought confirming whether a particular person is a property developer subject to the ban.

I support, in particular, that last provision because there may be grey areas and people would then have the right to seek a determination on whether they are covered by the legislation. The maximum penalty for knowingly making or accepting an unlawful donation in the case of a political party is 200 penalty units, \$22,000, or in any other case 100 penalty units, \$11,000. The bill contains a detailed definition of "property developer". The Urban Taskforce, the body representing developers and others in this State, is concerned with the terminology of "close associates of professional property developers" and whether that includes the spouse of the developer. That body argues that the bill is sexually discriminatory as individuals are caught under the bill due to their marital status. I have no problem with it because it is not impossible for a developer to have his wife make the donation on his behalf. If that were the case, the bill would pick this up and prevent that from happening.

The privileges committee and other parliamentary committees have discussed whether the pecuniary interest declaration should only include the assets and property of members or that of their spouse. Over the years I have come to a very strong conclusion that it should include the spouse as well. I do that already with my return because my wife and I are joint owners so automatically my wife is included. However, I believe some members use that loophole to conceal their very large assets, which may have some influence on their actions and voting in this Parliament. The Parliament and the public should be aware of that. If those assets have been transferred to the wife deliberately to conceal them from the public, we would be forced in future to amend the pecuniary interest requirement to include the spouse.

If we are to include it for spouses of developers it would be inconsistent if members of Parliament opposed it, as there would be one law for developers and another for members of Parliament. We should hold ourselves up to the same standards that we expect from other people. I note that the urban taskforce supports this ban but wants the ban on donations to be right across the board to cover all businesses, trade unions, individuals and non-government organisations. That was a recommendation of the Select Committee on Electoral and Political Party Funding that I chaired. I am pleased to support this bill and urge the Government to rapidly proclaim it and bring it into effect.

(Source: Hansard, 3 December 2009

<http://www.parliament.nsw.gov.au/Prod/parlment/hansart.nsf/V3Key/LC20091203064>)

*E. Frennell distributed & attached to submission**HMF
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Select Committee on Electoral and Political Party Funding

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SELECT COMMITTEE ON ELECTORAL AND POLITICAL PARTY FUNDING

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Report: Electoral and Political Party Funding in New South Wales

Debate resumed from 19 June 2008.

Reverend the Hon. FRED NILE [3.19 p.m.]: I gave a brief introduction to this report of the Select Committee on Electoral and Political Party Funding, which is entitled "Electoral and Political Party Funding in New South Wales", when I tabled it on 19 June 2008. The committee's inquiry revealed strong community concerns about the influence of political donations on parties, groups and candidates. Many inquiry participants told the committee that political donations undermine the integrity of the political process. Inquiry participants were particularly worried that property developers could attempt to use political donations to influence planning decisions at State and local government levels. There was significant movement on the issue of electoral funding reform while the inquiry was underway. Members will recall that former Premier Iemma foreshadowed changes to the New South Wales election funding scheme. A number of those changes addressed corruption risks at the local government level, and other changes addressed loopholes in the current disclosure scheme. At a later date former Premier Iemma was also reported as advocating a ban on all donations. His announcements were followed by statements from the Special Minister of State, Senator John Faulkner, that the Commonwealth would likewise seek to reform its system of electoral funding.

The committee's report sets out a proposed model for reform of the New South Wales electoral funding scheme. The proposed model seeks to ensure that the scheme fulfils two aims that have been the underlying objectives of the scheme since its inception in 1981: first, prevent corruption and undue influence; and, second, level the playing field by reducing the disparity in financial resources available to parties, groups and candidates. The committee believed both these aims to be of equal weight, and our recommendations were therefore designed to address both objectives. In crafting a proposed model for electoral funding reform, the committee took care to learn from the experiences of other jurisdictions. The committee not only looked to the States and Territories but also examined four key international schemes—namely, those of Canada, New Zealand, the United Kingdom and the United States. The committee's proposed model is similar in many ways to the Canadian scheme, which has been widely praised.

The committee considered a number of key issues in its report, and I will address each of them in turn. The first key issue was public funding for parties, groups and candidates contesting State government elections. At present, public funding is not provided for local government elections. Later in my speech I will outline the committee's findings on local government. The committee considered whether public funding for State elections is provided in a fair, equitable and effective way. In regard to the 4 per cent eligibility threshold for public funding, the committee recommended that the threshold be retained as one of a number of measures to deter frivolous candidates. In addition to funding for contesting elections, some parties represented in Parliament are also eligible for annual payments from the Political Education Fund. The committee found that, rather than being used to improve political literacy, these payments appeared to be used to support the costs of party administration.

The committee therefore recommended that funding for administration costs be made available to all parties with members elected to either the Legislative Assembly or the Legislative Council. The committee also recommended that a new Political Education Fund be established to improve political literacy, and that it be administered by the New South Wales Electoral Commission. The committee found that public funding for State government elections would need to be increased to implement the committee's proposed model for electoral reform. The committee recommended community consultation to determine a reasonable increase in public funding.

The second and most contentious issue examined by the committee was that of political donations. Politicians and their parties rely on political donations as a major source of financial support. Some inquiry participants believed donations are having a negative impact on the political system. On the other hand, others argued that in a democratic society political donations are a legitimate means of participating in the political process and thereby expressing support for particular parties or candidates. While inquiry participants supported tighter regulation of political donations, they did not agree on the best means of regulation. The committee considered in detail evidence on the advantages and disadvantages of banning political donations, and the merits of imposing targeted restrictions on certain sources of donations, such as property developers.

The evidence revealed a number of reasons why it would be unworkable to impose targeted restrictions. First, it would be difficult to define restricted sources. Secondly, donations from restricted sources could be funnelled through donors not subject to restrictions. Lastly, many sources of donations could be subject to targeted restrictions, leading to subjective decisions about who should be singled out for higher standards of regulation. Given the barriers to imposing targeted restrictions, the committee found that the most effective means of regulation would be to implement a wide-ranging prohibition on all political donations. The committee concluded that donations by individual persons must be exempt from such a ban in order to free individuals to participate in the political process. The committee hoped that if all but individual donations were banned, parties and candidates might become more responsive to their grassroots support bases. Importantly, through their exemption, individual donations could become a means of financial support for new and minor parties and independent candidates.

The committee therefore recommended that political donations from corporations and other organisations be banned but that donations of up to \$1,000 made by individuals be exempt from this prohibition. The committee recognised that this ban could give rise to legal and constitutional issues, and that these issues would need to be investigated. The committee also called for liaison with the Federal Government to ensure national consistency of electoral donation and disclosure laws. However, the committee felt that New South Wales should not delay reform until the Federal Government and the other States made moves in this area. The committee considered whether other sources of financial support should also be exempt from a ban on political donations. It found that certain sources, such as membership and affiliation fees, should be exempt if they were to be used to support the costs of party administration. The committee noted the importance of volunteer labour during election campaigns, and the importance of volunteering as a means of participating in the political process. The committee urged that the reforms be crafted carefully to ensure that genuine volunteering is exempt from the ban on all but small, individual donations.

During the inquiry the New South Wales Greens introduced the Environmental Planning and Assessment Amendment (Restoration of Community Participation) Bill 2008 in the Legislative Council. The bill was referred to the committee for consideration as it pertained to political donations. The committee considered the provisions of the bill to be relevant to its terms of reference. First, the bill proposed to make it an offence for a property developer to make a political donation; and, secondly, it proposed to ban donors from lodging a development application for one year after making a donation, and to ban applicants from making a political donation for one year after their development application was determined. While the committee agreed that political donations from property developers needed to be regulated, it did not believe a ban on developer donations was an appropriate means of achieving this end. Rather, the committee supported a comprehensive ban on all political donations, with the exception of small individual donations, that is, to include bans on developer donations.

The third key issue considered by the committee was campaign spending. Spending on election campaigns has increased markedly since the Election Funding Scheme was introduced in 1981. This is due to the increased use of political advertising. Spending caps are one means to reduce current levels of campaign expenditure. The committee report discusses the arguments for and against spending caps and examines the difficulties associated with the introduction of such caps. Some inquiry participants argued that the spending caps should not be introduced because they would be circumvented by third party spending, and because it may be difficult to penalise those who breach the spending caps.

On the other hand, the committee heard that the impediments to imposing spending caps had been overstated and that spending caps were an important means to ensure greater parity in electoral competition. The committee concluded that it would not be effective to introduce supply-side restrictions on political donations without also introducing demand-side restrictions on the level of campaign spending. To do one without the other would not achieve the twin aims of the Election Funding Scheme. Therefore, the committee recommended that spending caps be introduced. Again the committee proposed investigation of any legal and constitutional issues arising from the introduction of spending caps.

The evidence showed that a number of factors need to be taken into account in setting spending caps. Spending caps must be high enough to allow parties, groups and candidates to conduct a reasonable election campaign but not so high as to impose an excessive demand on the public purse. An important consideration is whether there should be the same spending cap for all candidates or whether the cap should be adjusted for candidates in rural and regional

areas or independent candidates. The committee concluded that the Auditor-General should set the spending caps.

The fourth key issue examined by the committee was disclosure of donations and spending. The Election Funding Scheme, which has been in place since 1981, was based on the following premise: that transparent disclosure of political donations and election spending would deter corruption and undue influence. Inquiry participants described a number of deficiencies that impeded the transparency of the disclosure scheme. The committee therefore considered ways to strengthen provisions of the disclosure scheme. Evidence to the committee described the myriad disclosure thresholds and time frames at local, State and Federal levels.

The committee concluded that, as far as possible, there should be consistency between the disclosure requirements at Federal, State and local government levels. The committee also made a number of recommendations to ensure that the information disclosed is as accurate, timely and accessible as possible. The committee recommended that political donations over \$500, and all spending, be disclosed every six months. The committee also recommended greater use of the Internet to submit and publish disclosure returns. A number of inquiry participants said that the website of the Election Funding Authority was difficult to use and did not provide information in a timely manner.

The committee recommended making compulsory online lodgement of disclosure returns. This would allow for real-time entry of donations and spending data. To improve donor identification the committee recommended that individual donations be linked to the New South Wales electoral roll. This would also have the effect of limiting political donations to persons eligible to vote in New South Wales. Inquiry participants were concerned also about fundraising events, in particular, large fundraising dinners that facilitated personal contact between donors and politicians. The committee recommended that political donations made at fundraising events be clearly labelled as such.

The committee also considered the distinct issues raised by local government in comparison to State government. One of the difficulties encountered by the committee was that the Election Funding Scheme was not designed with local government in mind. This was problematic because the complexities of designing an election funding scheme for local government had never been considered in their own right. Inquiry participants described the importance of decisions made by local governments and, in particular, the far-reaching implications of planning decisions. The committee concluded that corruption-proofing local government was vital, and therefore recommended that consideration be given to introducing public funding for local government elections. [*Time expired.*]

The Hon. MICHAEL VEITCH [3.32 p.m.]: This is the first occasion on which I appeared as a member of the Select Committee on Electoral and Political Party Funding. I place on record that the members of this committee operated in a way that the public often do not see. There were a few tense moments but, in the main, people who gave evidence to the committee had a genuine commitment to reforming the process.

Pursuant to standing orders business interrupted and set down as an order of the day for a future day.

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