

**Submission
No 20**

INQUIRY INTO PUBLIC FUNDING OF ELECTION CAMPAIGNS

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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

PUBLIC FUNDING OF ELECTION CAMPAIGNS (INQUIRY)

CLOSING DATE 22ND JANUARY, 2010

Joint Standing Committee on Electoral Matters
Parliament House
Macquarie Street
Sydney NSW 2000

Committee Members

1. I herein wish to add further to my previous Submission to this Committee (No 45) in respect to the Funding of Election Campaigns and in light of recent information, expand on those issues.
2. In New South Wales we have about one hundred and fifty elected members of Parliament and a further fifteen hundred elected Local Government Representatives. These people were elected by the Community to represent **all of the Community** regardless of colour, class or creed and even Political persuasion.
3. Elected Public Officials at Federal, State and Local Government level have or should have a very high standard of duty, care and responsibility first and foremost to the Community they serve. They are also expected to Govern in an efficient and cost effective manner that is fair and just to all, without fear, favour, affection or ill-will. For their commitment and dedication to their communities they are paid substantial salaries and several varied expenses and travel benefits.
4. Why then isn't it happening in NSW and other States. It is obvious that the famous proclamation 'government of the people, by the people, for the people' has now changed to 'of the ALP, by the ALP for the ALP' who have worked out a formula that gave them access to large sums of money from (a) Corporations, (b) Taxpayer funded Election strategies including advertising, (c) Ratepayer funded Election strategies through ALP controlled Councils and Lobby Groups and then (d) Reimbursement by the Taxpayer based on the number of vote received.
5. And that is not to mention the State Government using ratepayer funded human and financial resources to implement their unwanted (by the Community) Urban Consolidation Policy.
6. This method of Political funding coupled with the current preferential, above the line, 'donkey' voting system prevents any smaller party or genuine independents from seriously challenging the incumbent government, let alone the other major party. As stated previously this system allows incompetent, self serving and possibly even corrupt candidates to rise to the top in the pre-selection process and then through and because of this preferential above the line 'Donkey' voting system, into government.
7. It is obvious that major parties are no longer 'Mutual Associations' but committed income producing business operations more concerned with the interests of their family, friends and business acquaintance than their communities.
8. It is also my view that the description in the Australian Constitution 'member of a Political Party' is a reference to a 'Mutual Association' and not a business operation. It is the Candidate seeking election that the Constitution supports not the Political Party.
9. Although I am now opposed to Public Funding it is my view that should it be introduced to all levels of government then it be made available only to Candidates and not Political Parties.
10. I also strongly oppose any DONATIONS to Candidates or Parties from any Corporations, Companies or business interests unless it is in a personal donation from the donor's own personal account, directed only to the Candidate of choice and limited to \$1000.00 per election term. And that such transaction be properly documented and receipted.

11. Further I submit that such donation not be allowed as Taxation deduction, especially not from a business account. Nor should Party Membership be an allowable deduction.
12. Direct access to Ministers and Departmental Heads and Managers by Lobbyists should be stopped immediately because it breeds distrust and suspicion in the community. As an analogy, any person being paid large sums of money to promote a cause meeting with Departmental Heads and Senior Managers is akin to a miscreant meeting personally with the judge or magistrate hearing his case to discuss the best possible outcome for the miscreant.
13. For a Minister meeting these people is akin to the same miscreant meeting with the Chief Justice to discuss the best possible outcome. That is what a perception is, that something is or isn't taking place regardless of whether it really is or isn't taking place.
14. Frequent meetings between Party Donors, Lobbyists and Senior Management and Ministers whether through telephone calls, in private meetings or at **Fund raisers** is enough for those involved to earn a reputation. The only reputation our Politicians should have is one of character, honesty, integrity and truthfulness and remain at arms length from those promoting a business strategy. Any approach to a Minister or their staff should only be done by way of written submissions that are immediately made public. Verbal discussions rely on one or the other making manual or electronic notes or from memory that is often unreliable, as we have seen recently.
15. How soon do Politicians forget the actions of a former well known Party Leader turned Lobbyist and his lobbying on behalf of a Major Nationwide Australian Development Corporation. Although it is said that the Company has sold off their questionable NSW development approvals there is always the perception that they are being completed by others on their behalf.
16. Just like the alleged separation of powers between Government and the Judiciary and Government and Church there should clearly be a separation of power between Corporations, Donors and Lobbyist. In NSW Developers, Lobbyists and State and Local Government officials appear to have combined to override and defeat the health, safety, interests and comfort of the community in their quest for Party donations.
17. There is a perception in the community also that those charged with investigating complaints against public officials and making administrative decisions, particularly in the area of Development, appear to lack the will to pursue the charter of their office. One such group appears only able to investigate lower level management and workers while leaving those politically attached alone. Hardly equality of justice.
18. It also seems that when a complaint is made to a public authority someone within that authority is a relative of those complained of. A coincidence perhaps, maybe, but the resulting action or inaction opens up a whole new world of perceptions.
19. The inclusion of Local Government in the Public Funding arrangement should only be considered after the number of Councillor positions be reduced from 15 part time Councillor positions to just 3 fulltime Councillor positions for each Local Government area with only one party candidate per local government area. Further that no party member be allowed to contest an election as an independent until at least one Election term has passed from the termination of his membership, ie committed Labour Councillors running as independents for the purpose of gaining control of a Council.
20. Since the State Government transferred powers from Elected Councillors to public servants the evidence is that there is little work for so many Councillors. The reaction by Councils vary. In three adjoining Council area one has reduced the number of meetings per month from two to one thereby increasing the value of their emolument from about \$600.00 per meeting to about \$1000.00 per meeting.
21. Another has continued with the same amount of Council Business that occupies only an hour or two and then to the bar for dinner and drinks.

22. The third defers decisions to the next meeting even though the decision of the unelected employee is for approval. This padding of the future agenda assures an extended meeting on the next occasion.

23. Three fulltime Councillors can make the same decisive 'Aye' or 'Nay' as fifteen at a substantial cost saving in Councillor payments and expense including meals. Council becomes more efficient and cost effective. The three Councillors would be more up to date on all issues affecting Council and more able to promote their community better and more actively. This would allow the community to judge the merit of their elected officials and remedy any performance problems at the next election. It would also allow the Councillors to showcase their ability and prove they are worthy of re-election not as is the case now.

24. It is further suggested that 'Lobby Groups' such as Regional Organisations of Councils be banned, its employees and resources be distributed amongst member Councils. The practice of Councils handing certain powers to a 'Lobby' group such as a ROC is a potential source of corruption through the abuse and misuse of funds and Tender processes. Oversight of these groups appears to be poor and questionable.

25. It is my view also that the Australian Electoral Commission, its State Subsidiaries and the Electoral Funding Authority merge and that all Elections be carried out under Federal auspices. In this regard I have made a submission to a Federal Inquiry into the Australian Election Process suggesting exactly this and the possible introduction of a Computerised Voting process that records a person's 'act of voting' and 'not how they voted' making for a more efficient electoral system. No findings have been made to date.

26. While corporate donations have been flooding into the coffers of the major parties without any apparently proper auditing or public oversight, this government has seen fit to continue to screw the Taxpayer and the general public through increased Taxes, fees and charges while Local Government continues to screw the ratepayers through increased, fees and charges and in some cases special rates are allowed to cover mismanagement induced financial losses under somewhat suspicious circumstances. In other words the community is paying for the mistakes and incompetence of these politically chosen and endorsed so called community leaders.

27. In reality while the average man or woman may aspire to higher office the fact they will not achieve it because they are outnumbered and outspent by the major Political Parties that are using funds provided by Developers and taxpayers and even ratepayers that is not available to the average man or woman. So much for equality and opportunity in our electoral process.

28. One only has to look at the source of funding for major parties to see the disparity between Party Candidates and the non aligned individual Candidate. Where has the money come from to support Major Parties that is not available to the ordinary citizen who believes he has something to give to his community.

29. Major parties funds come through membership fees and personal donations, from unions through their membership fees. They have the financial support of their own Licensed Clubs and receive donations from business and corporations many of whom are engaged by Government Departments to carry out a variety of contract and non contract work including such things as Legal advice, auditing, providing street lighting, environmental impact assessments that are always in favour of the proponent in many contentious and contested situations.

30. During the course of an Election campaign we see the incumbent Government using public taxpayer funds to promote themselves through the Media. While the other major party does not have to the same amount of funding they generally get a similar amount of media time to expound their views. Very few minor parties or independents get the same media access unless some sort of deal is being set up to purchase preferences.

31. Then after the Election is over the Party, not the Candidate, is paid a substantial amount from the public purse. Political Parties are like the NRMA and are supposed to be a 'Mutual' where members hold a common interest and contribute to the operations of their 'Mutual' interests. Not so with the Major

Political Parties they are now being operated as a Business and that business is now being funded by the Community and particularly new home buyers.

32. It is a fact of life that Companies, Corporations and Businesses run their businesses to make a profit. If donations are required to achieve an outcome in their favour then the donation is factored in to the costs and passed on to the consumer through purchase prices, just like Government Fees and Charges are. The donation would also be written off as an expense through the Taxation system

33. The specifics of your Terms of Reference are set out below:-

A. The criteria and thresholds that should apply for eligibility to receive public funding;

It is my personal view that no public funding go to any Political Candidate. Their reward is being elected, well paid and then re elected by the Community in appreciation of their effort on behalf of the community they are sworn to serve and protect.

Having said that and in recognition that all is not fair or equal under the current Australian electoral process I reluctantly accept the inevitable of Public Funding under more stringent conditions than now apply.

it is my view that the Australian Constitution singularly recognizes a human individual as a candidate and not a collective Political Party run by unelected party members.

If Public Funding is to be provided then eligibility criteria is quite simply that an Australian Citizen must nominate as a candidate at least six months prior to an Election for a specific Electorate in the lower house, and one candidate per seat for the upper house

That above the line and preference voting be stopped and a ballot be conducted for positions on the ballot paper. This action would require the voter to prove their competence to vote by thinking and doing some research to find who they want to vote for amongst all of the Candidates. Instead of 'Donkey Voting' one could call it 'Intelligent Voting'. Fair and Equitable.

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;

Public funding should be calculated only on the actual amount of money expended personally by the Candidate in attempting to gain election, minus any subscriptions or contributions from Parties including branches and individual member donations as well as from fundraising activities carried out.

Such funding should be to a total amount that is the average of all Candidates.

No funding process should include any monetary reward for the number of first preference votes received.

Nor should Parliamentary representation be part of the criteria. Many of our Politician are already using their Electoral and other allowances to promote themselves to the local Community ad nauseam. Thirteen photographs in a four page document is a little over the top.

Some are using these allowances to request local votes to apply for postal votes with a request that the application be returned through the Ministers Office.

All Candidates should have the same level of access regardless of whether they are first time nominees or are in their tenth term of office. To do otherwise creates an unfair advantage.

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.

To obviate the possibility of Corporate Executives becoming party members in an effort to bypass the ban on Corporate donations a cap of \$1000.00 should be introduced per member.

There will obviously be attempts by some politically active groups or companies prepared to bypass the cap by making individual donations through trusted employees, members, associates and friends. Such activities should incur substantial penalties for the perpetrators and agents.

The AEC and the EFA should be merged and be given appropriate powers carry out investigations into all allegations and complaints of illegal or irregular Electoral activities including unlawful donations.

Their powers should include the power to inspect books of account, bank record and all transactions made by the candidate, party and donor.

D. The persons to whom the public funding should be paid directly to candidates or to political parties.

As the Australian Constitution only recognizes individuals as Candidates then any Public Funding should be paid direct to the Candidate. If the Candidate is a member of a Political Party then he can acknowledge receipt of the Payment and then give it to his party, or at the time of nomination he can assign his funding payment to his Party and no other.

Should the Candidate no wish to claim any Public Funding Payments then he should sign a waiver form at the time of nomination.

Some Candidates may wish to claim the costs of nomination and other costs in the Annual Taxation Return. There should be some form of Cross Checking with the ATO to ensure than double dipping is not taking place.

E. The mechanisms for paying public funding, including the timing of payments .

Payment of Public Funding should only take place when the Candidate has submitted all receipts for actual payments made

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.

Public Funding should be limited to an average of the costs actually incurred by all NSW Candidates which should be available immediately the cost is incurred but not paid until the charges have actually been paid.

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.

Under the Criteria mentioned above the more money spent by Political Parties on their Candidates past the Cap reduces the amount of Public Funding dollar for dollar until Public Funding cuts out. In this way only will a level playing field be achieved.

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

Donations by Companies, Corporations, Associations and like groups should be banned. If the CEO, Directors or Members of the Board of a Company(including Religious Groups) make a decision to donate to a Political Party then they are doing so in the expectation that their Company or Group will receive some form of benefit in return whether by way of subsidy, grant or land release.

If the CEO, Directors or members of the Board individually are so interested in the Parties aspirations then they should join the Party and make a donation to the limit set.

- I. Whether there should be any regulation of expenditure by third parties on political advertising or communications.**

If Government Advertising in any form is deemed to be in any way of an Electioneering Form then the cost of that advertising shall reduce the amount of Public Funding to ALL of that Parties Candidates and to include the costs of allowing all Candidates the same advertising and communication arrangements.

This action will stop those in Power from using Public funds for the purpose of advancing the Political Interests and aspirations and should be enshrined in Legislation.

- J. Whether there should be any additional regulations to ensure that Government information advertising is not used for partisan political purposes.**

Legislation should be provided to allow the AEC and AEF Authority to determine if the information advertising is being used for partisan political purposes and act according to procedures outlined in H above.

- 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;**

It is my belief that all Elections, Federal, State, Local and any other Election required by Federal or State Legislation, be conducted under the auspices of the Australian Electoral Commission and the Electoral Funding Authority who should be given Legislative authority to investigate ALL allegations of illegal or irregular Election associated actions at all levels of Government. Our Electoral System should be sacrosanct and impervious to abuse by anyone. Legislation should also include the ability to recover nominal costs from bodies that are required by law to conduct elections within their areas of administration.

- L. What provisions should be included in order to prevent avoidance and circumvention of any limits imposed by a public funding scheme;**

The Australian Electoral Commission should have the legislated power to investigate and prosecute any criminal or other breaches of the Act calling upon the expertise of the all other Government Departments including the Australian Federal and State Police Forces to ensure compliance with the Act. For too long our Electoral System has been treated as a joke.

- M. The compatibility proposed measures with the freedom of political communication that is implied under the Commonwealth Constitution;**

There should be no impediment to the freedom of Political communication providing that the advertising and communication is not intended to influence the outcome of an election as opposed to an attempt to influence members of the public to join their Party.

- N. The impact of any proposed measures on the ability of new candidates, including independent candidates and new political groupings, to contest elections;**

The result of my proposed measures will ensure that all Candidates start on an equal footing, with equal access to Public Funding.

- O. Any relevant reports and recommendations previously made by the Select Committee on Electoral and Political Party Funding, and;**

Nil

- P. Any other related matters.**

Party membership is a personal and voluntary matter for the individual themselves. Political Parties are mutual associations of likeminded people and Political Actions taken in their name and on their behalf together with all costs involved are their responsibility and not the general

communities. for sponsoring the election of either of two political parties to the disadvantage of individual Candidates whose ideology is opposed to those two main parties.

Under consideration by this Committee are recommendations that Local Government Councillors be publicly funded in the same manner as State and Federal Politicians.

If local government funding is accepted then I believe that changes need to be made by the State Government to reduce the costs to the tax and ratepayers who mainly fund Councils and their activities.

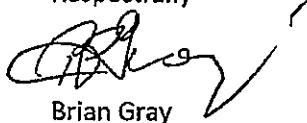
The reason for these suggestion is that there is evidence that State and Federal Politicians with the complicity of their Parties Local Government members are using ratepayer funds collected by Councils from ratepayers and legally intended for their benefit has been used by those Politicians for the purpose of State and Federal Election Strategies contrary to the purpose the were acquired something that I believe is illegal at worst., at best an abuse of power.

It appears also that the powers and responsibilities of Councillors have been deliberately shifted by the State Government to Managerial Staff and employees.

- (i) Current local government areas should remain.
- (ii) The number of Councillors for each local government area should be reduced to one (1) Mayor and two(2) Councillors popularly elected with the candidate achieving the highest vote elected Mayor and the next two highest to be a first and Second Councillor.
- (iii) Preferential and above the line voting or 'Donkey' votes be abolished.
- (iv) That Political Parties be allowed only to select one candidate per Local Government Election.
- (v) Those elected to these positions become full time Council members with total responsibility for managing their Local Government Area in a cost effective and efficient manner and to be truly answerable to their Community at the next election and not as is currently the case Councils are ruled by unelected, politically and Party appointed Managers whose power and authority now exceeds elected Councillors
- (vi) The Term of Office remain at four years.

34. This submission is made in the public interest particularly in relation to issues of fairness, integrity and equity in our Electoral System and political system. It is my belief that the only way in which the NSW Planning system can be fixed is through a Royal Commission but finding someone that is completely independent may be a difficult task.

Respectfully



Brian Gray