

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

Organisation:

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The Hon Fred Nile M.L.C.
Chairperson
NSW Legislative Council Select Committee
on Electoral and Political Party Funding

Email: fundinginquiry@parliament.nsw.gov.au

Dear Rev. Nile,

Attached is a submission which I ask the committee to consider.

I am willing to appear before the committee to elaborate on the submission and if necessary give evidence under oath.

Yours sincerely,

JOHN HATTON

SUBMISSION TO PARLIAMENTARY COMMITTEE ON ELECTORAL FUNDING

General

The suggested reforms are based on principles of openness, accountability and equality of opportunity which must apply to ensure a fair, free and truly democratic election process.

ELECTIONS, DONORS AND LOBBYISTS

The reality: an example of what occurs nationwide

Election and influence

Preselection

The power of groups and citizens generally, especially if they are of modest means and who are not members of unions or political parties, is rapidly eroding. Centralisation of power within the political parties and some unions marginalize the general membership. The Parliament and the process by which its members are elected is being hijacked. Members of Parliament are appointed not elected. Ninety percent of Members of Parliament throughout Australia are not elected by the people of Australia. The party pre-election process guarantees that small powerful and usually factional groups determine who the candidates are and what electorates they will represent.

The situation is even more serious given the List System of Voting. The List System designed to entrench vote preferencing in the hands of party operatives and consolidates control.

Given the overpowering influence of political parties, especially Liberal, National Party and ALP, any claim to privacy of administrative and election funding records as a way to hide financial power and influence must be rejected. Money and influence buys votes, power, access, partisan decision making and thus corrupts the democratic process.

Powerful groups, influential and cashed up lobbyists have an enormous effect on election outcomes and ongoing government. They have the inside running and the general public to a disturbing degree are frozen out of process.

Independence and Integrity of the Electoral Process

The central role of the NSW Electoral Office in the operation and policing of elections is fundamental yet the overview of this office is not bipartisan. Such is the case also with the Electoral Funding Authority. Both operate under legislation crafted and enacted by government.

WATCHDOG ROLE OF PARLIAMENT

Need for Parliamentary Committee to oversee State and Local Government Elections

It is anomalous that there are joint standing committees of oversight for the Ombudsman, ICAC, Finances Public Accounts Committee [PAC] etc yet not the process of elections.

Such a committee needs to be truly bipartisan; meet as the need arises facilitate public access [currently marginalized].

The committee could also oversee with the State Audit office [see below] the performance of the State Electoral office and The Electoral Funding Authority and receive submissions, professional advice, public complaints and submissions as well reports from the AO and ombudsman. Thus the committee will be empowered and informed to recommend legislative and regulatory change where necessary. It is dangerous that Legislative change to, and overview of, the election process remain with government.

ROLE OF AUDITOR GENERAL

Lobbyists and donors to elections are often one and the same. In any event to separate one from the other is to deny the importance of and dire threat to democracy of influence peddling.

Buying and Selling Democracy – He who pays the piper calls the tune.

Political parties in government charge for exclusive access to ministers – for example, those who can afford to pay a thousand dollars per plate for a party political fundraising dinner get this personal access. This is an affront to equality, fairness and good government. It must be outlawed.

Public registers of pecuniary interests of elected representatives at all levels of government operate but the guidelines compelling candidates as well as elected representatives must be set down by the Auditor-General AO, updated regularly, and most importantly, policed by The Audit Office and ombudsman [not the government].

The Audit Office [AO] in its performance audit role must be pro active. The role of the AO is only as effective as its legislative, regulatory and financial empowerment.

Auditor General must be empowered to set guidelines and resourced to police the efficacy of all aspects of the election and where necessary post election process at the State and Local Government Levels

AO to Establish Set Guidelines for and Police:

- Register of donors who in cash and/or kind assist candidates and sitting members.
- Register of lobbyists

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- Register of preferment and special benefit over and above the general benefit received by contributors and lobbyists as defined in the guidelines set down by AO.

Lobbyists and Preferment

Under guidelines set out by the Auditor-General, a register of lobbyists, a preferment register of special benefit, over and above the public benefit, gained by lobbyists, or gained by special interest groups and individuals must be publicly available and apply to all levels of government.

Donations and Party Records

A register lodged with the Auditor-General of donations and preferment given to political parties or individuals must be regularly updated and publicly available. Electoral participants must publicly publish, through the Auditor-General detailed financial statements including donations, the raising of party funds, the dispersal of party funds, including administrative and operative accounts of political parties, groups or individuals involved in the electoral process. Follow the dollar is the key. Those involved in the political process must be publicly accountable: e.g. financial records posted on the internet. Political parties, groups and individual candidates are given generous election funding from the public purse, but are secretive to an alarming extent about levels of private support. The rules of disclosure are grossly inadequate.

Internet access to the above is crucial for openness, accountability and fairness.

Hidden Influence

Commercial In Confidence and preferred tendering [or no tendering] as opposed to open tendering has become an art form. The use and abuse of these mechanisms creates an unlevel playing field, has the potential to reward donors and lobbyists, waste public money, lead to the loss of public confidence and undermine good government.

I recognise the terms of reference limit this committee however it must be emphasised again the dollar trail is the key. The role of the AO is setting and publishing guidelines to protect the public interest cannot be confined to elections. There is a continuum of influence and pay back.

A central role for the AO will empower a parliamentary standing committee. It will have access, knowledge and the ability to make recommendations which flow from the AO analysis and other sources. The AO to be the day to day watchdog.

Summary

Lobbyists and Donors

Auditor General to be empowered to set guidelines and police the efficacy of process in:

1. Establishment of register of lobbyists.
2. Register of preferment and special benefit over and above the general benefit.

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3. Register of donors who in cash and/or kind assist candidates and sitting members.
4. Report publicly on the activities and influence of donors and lobbyists.
5. Report on the efficiency and efficacy of the election process.
6. Set guidelines for definitions, audit and report publicly including on the AO website finances [electoral and administrative] of political parties, groups and individuals involved in and as they relate to the political process.
7. Government advertising: establishment and observance of guidelines covering government advertising.

AO Reports

National Audit Office to report on matters that the AO decides are relevant to the policing role of the electoral process must be tabled within one week of presentation to the Presiding Officer of either or both houses of parliament and at least two weeks prior to Election Day. When parliament is not sitting, legislation to confer power to publish with absolute privilege reports of the National Audit Office.

Political Donations On Internet

Internet Public Access to records of financial and in-kind donations to political parties, groups, individuals, foundations, trusts, etc where activity is directly related to the electoral process. [Guidelines and protocols to be established by the Audit Office].

Online records updated on a three-monthly basis.

Public Funding

Legislation to obligate and empower the Electoral Funding Authority to:

1. Regularly and comprehensively publish its records online prior to election. To facilitate this a closing date for contributions in cash and kind and the date for their disclosure set at least two weeks before Election Day. A goal easily achievable in NSW with fixed 4 year terms.
2. Invoke sanctions.
3. Compel those in receipt of public funding to refund unspent funds to the Crown. [NAO to be the arbitrator].
4. The above to also apply to local council elections.

Amendments to the Local Government and Environmental Planning and

Assessment Acts to compel Council staff and elected council members to restate name of donor, amount and beneficiaries in the public section of business papers each time a decision concerning the donor is before a Local Government Council. Similarly publication in committee business papers must also apply whether that section is made public or not. This is to remind councillors in receipt of financial assistance and their colleagues of financial connections.