

**Submission
No 138**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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Submission by Laurence C Ganter

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IN

FIVE NUMBERED (ONE to FIVE) e mails

Before noon on Thursday 14th February 2008

Laurie Ganter

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CONCLUSIONS SUMMARY (4 ONLY)

ONE

FUNDING LIMITATIONS FOR STATE CANDIDATES ARE NOT PRACTICAL

Funding limits for candidates as proposed by the Liberals of \$30,000 would be:

- very difficult, if not impossible to police and control;
- a disaster for the Nationals who win in the North who now massively outspending Labor;
- against all free democratic concepts in our free enterprise society during an election campaign.

TWO

ELECTION FUNDING AUTHORITY ACT REQUIRES CHANGES

Unless an EFA Act with Regulations cannot dictate that all EFA returns from candidates must be able to be reconciled so that all donations and expenditure (with savings for future elections included) accounted for then no candidate returns should be required. Presently all state candidate EFA returns do not tell voters how his MLA was funded at the state election. So why have an EFA return for candidates?

THREE

CONTROL and/or BANNING DONATIONS

In a free democratic society I do not believe that there is a valid reason to single out the political voice of any correctly established entity and stop that entity from donating to the political party of their choice as long as such donations are transparent to both the individual member and the community.

FOUR

NEW RULES FOR LOCAL AUTHORITY ELECTIONS

With the aim of of stopping the practice of massively funded special interest third party corporations being temporarily created to act as a de facto political party to win the control of a Local Government Authority all third party donations should be declared in detail seven days before the Local Government election. Also see Recommendation 3 of the Second Report (Page 950) of the Tweed Shire Council Public Inquiry by Professor M Daly. (Enclosure Four)

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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Introduction

- 1.1 I wish to declare that I have been active politically since my youth and have enjoyed this interest. In 2004 I was no 2 on the 6 member Community Labor Team of candidates that stood for a position on the Tweed Shire Council. It is from this experience and in particular from my documentation of the extent to which a selected group of pro-developer candidates used a third party that collected donations from one industry (land developers and construction) and acted as a de facto political party to obtain control of the Tweed Shire Council.
- 1.2 As I recently paid to have copied and mailed to me, the donations and expenditure of my local Tweed Electorate National Party MLA (Geoff Provest) who last year had a convincing win over the sitting Labor member, I also wish to comment on this state documentation.
- 1.3 I must compliment the Election Funding Authority (EFA) of NSW for recently posting the electoral donations and spending details on their website. However the problem of not being able to reconcile the donations with the spending still remains. For example the EFA website has all the candidates in Tweed spending much more than they collected in donations. The greatest variation is Geoff Provest's donations of \$14,259 and a expenditure of \$186,363. Why? See my Enclosure Two where I use figures from Geoff Provest's original EFA declaration I had sent to me and make assumptions and ask questions.

THE POLITICS of POLITICAL DONATIONS –General Comment

- 2.1 I believe that political donations have now been highly politicized, and the politicians have reinvented the political donor as some sort of evil corruption seeking "workers union" or developer or corporation. This seems to be all part of envy politics which requires one side to demonized and distort the motives of donors who only give to the other side or give less to their side.

- 2.2 The recent political comments by Barry O'Farrell and Malcolm Turnbull suggesting that the funding of candidates should be capped while they point the finger at the so called excessive spending of the Labor Party during the last State election is just so much insincere and irrational rhetoric. I say this because the EFA website makes it clear that the 2007 donations to the coalition conservatives are much greater than the 2007 Labor donations . (See Enclosure One)
- 2.3 The 2007 NSW ALP donations and subscriptions totaled \$27,647,388 while the Liberal Party of NSW Division (Liberal Party) received \$29,585,696 in donations and subscriptions and the National Party of Australia-NSW (National Party) collected \$4,378,997. The Conservatives in total received \$6,517,305 or 23.57% more than the NSW ALP. The fact that the Liberal Party chose to only spend \$5,283,867 and the National Party chose to only spent \$1,719,898 or in total only 41.64% of the Labor Party spending of \$16,819,116 during the last State election was their choice. (See Enclosure ONE)

COMMENTS ON THE LIBERAL PROPOSAL OF LIMITING CANDIDATE SPENDING TO \$30,000

- 3.1 I suggest Barry O'Farrell was simply playing politics when he took a swipe at State Labor's \$16.819m spending while trying to hide the Conservative's decision not to spend more than their combined \$7,003m of their 23.57% greater kitty. He then went on to suggest all State candidates be restricted to spending \$30,000 each election and the party HQs be limited to a maximum spend of \$1.5m each. This would seem to be very convenient and fit his current policy of low spending.
- He also offers a confusing view on third party spending and third party donation limits of \$250,000. I say confusing because no one seems to know if this "third party electoral activities" limit of \$250,000 is to be applied to the third party maximum spending in each electorate or just to the Party HQ third party spending whatever that means. It is further confused because the reports in the Sydney Morning Herald related to a third party limit on donations only of just \$250,000.
- 3.2 I contend this third party limit could never be controlled. As I will show in this submission in reference to Local Government elections. All one organization has to do is to create a number of incorporated entities and keep donating the proposed maximum \$250,000 from each formed entity.
- 3.3 The Tweed Shire Council elections saw a third party called Tweed Directions Inc formed. It then spent \$496,525 to put 6 pro-developers in control of Tweed Shire Council in March 2004. Tweed never did find out how much they collected as a number of contributing Developers got "cold feet" because of the personal abusive and muckraking tactics used by Tweed Directions Inc so they withdrew their funds. They wanted no part of Tweed Directions Inc and "their dirty personal tactics", one told me later. (See the Weekend Australian article in Enclosure THREE (last enclosure) to this report's Enclosure SIX)

POLITICS AND SPENDING LIMITS IN THE FAR NORTH

3.1 Barry O'Farrell was clearly not speaking for the National Party in the Northern Rivers electorates of Tweed, Lismore, Clarence and Ballina and Coffs Harbour when he mentions limits of \$30,000 electorate spending. I provide the following to make my point that Barry O'Farrell is only playing politics: (I use the NFA supplied figures from the internet)

- Tweed Electorate
Provest, National Total Contributions \$14,258 Total Spent \$186,353
Newell Labor Total Contributions \$10,498 Total Spent \$33,289
Provest spent \$5.60 for every dollar Newell spent and won after preferences by 52.97% to 47.03% .
- Lismore Electorate
George, National Total Contributions \$21,446 Total Spent \$51,787
Lanyon, Labor Total Contributions \$5,466 Total Spent \$12,386
George spent \$4.60 for every Lanyon dollar and won after preferences 60% to 40%
- Ballina Electorate
Page, National Total Contributions \$31,958 Total Spent \$47,000
Dorican, Labor Total Contributions \$2,184 Total Spent \$17,804
Page spent \$2.64 for every dollar Dorican spent and won after preferences by 64.48% to 35.52%.
- Coffs Harbour Electorate
Fraser, National Total Contributions \$65,774 Total Spent \$65,830
Kennedy, Labor Total Contributions ZERO Total Spent \$10,000
Fraser spent \$6.58 for every dollar Kennedy spent and won by 67.62% to 32.38%.

3.2 In summary the nationals spent the following times over the Liberals proposed limited spending of \$30,000;

- Tweed 6.21 times the \$30,000
- Lismore 1.71 times the \$30,000
- Ballina 1.56 times the \$30,000
- Coffs Harbour 2.19 times the \$30,000

The only Labor candidate to go over the \$30,000 proposed limit was Newell in Tweed who went over by 10.9% or \$3,289 or 0.109 times the \$30,000

A \$30,000 Expenditure Limit – WOULD IT BE PRACTICABLE?

3.2 I am sure that all Northern Labor Branches would just love \$30,000 spending limit being placed on all Northern national Party candidates. However my Tweed Heads Branch of the Labor Party of NSW point out that all other areas of communication supporting political parties would also need to be regulated.

- 3.3 In particular the press and radio in the North may need to be regulated to ensure equal free time and free space and equal editorial time is provided to the all parties. Any limitation of spending should also not allow unlimited third party support for a particular candidate by the media. Is limiting and regulating all the media during an election campaign practical in a democracy? Clearly not!
- 3.4 Further all Third Party support for candidates would also need to be strictly controlled or abolished or be included as part of the \$30,000 limit. Spending limits would be of no value unless there are realistic penalties and some type of internal independent auditing and certification of all returns. (The power for the EFA to audit returns is in Recommendation 3 para 8 of the Second Report from the Daly Inquiry into the Tweed Shire, but in the context of the Local Government elections. (See Enclosure Four)

FUNDING LIMITATION- A DISASTER FOR THE NORTHERN NATIONALS

- 3.5 For the above reasons detailed in paragraph 3.3 and 3.4 alone I suggest such plans to impose funding limits for candidates as proposed by the Liberals would be:
- very difficult, if not impossible to police and control;
 - a disaster for the Nationals who win in the North who now massively outspending Labor;
 - Against all free democratic concepts in our free enterprise society during an election campaign.
- 3.6 The conservatives in the North are pro-developer and the North is a magnet to the rich developers who are presently massively funding them. (See Enclosure Six where a Developer funded third party donated over \$500,000 in Tweed Shire Council election of 2004.

STATE RETURNS TO THE ELECTION FUNDING AUTHORITY (EFA)

- 4.1 I have included a copy of the EFA return that Geoffery Provest, National Party, Tweed submitted to the EFA. (See Enclosure Two) The first three pages are my analysis of his Return. I note my figures differ greatly from the detail on the EFA web site included as the last page of Enclosure Two.
- The Return advises G Provest received \$23,729 from local Donations and from fund raising activities. The EFA web site reduces that to \$14,258. I calculate that he spent \$171,408 while the EFA web site has raised that to \$186,253. To balance the donations and spending the actual return advises (but not on the EFA web site) the National Party of Australia- Tweed Electoral Council paid \$90,989 of G Provest's accounts. That leaves \$56,690 by my figures and considerably more by the EFA figures unaccounted for. I ask:

- Why is the community not able to be informed who made the donations to the Tweed Electoral Council or advised how these contributions were collected?
- Why has the National Party and other Parties been allowed to use this way of hiding its donator source for so long? and;
- Does this method of hiding donor identities or sources not make the whole exercise of disclosure and the whole intent of the EFA Act a large waste of everybody's time?
- Surely it is either total disclosure or none at all or change the Act so all candidates are required to reconcile donations with all their expenditure?

4.2 If the extra \$56,690 that was spent came from the State National Party HQ why not say so in the EFA return? Why go to all this effort to keep the identity of donors or sources of funds secret?

CONCLUSION

4.4 I conclude that unless an EFA Act with Regulations cannot dictate that all EFA returns from candidates must be able to be reconciled and all donations and expenditure (with savings for future elections included) accounted for then no candidate returns should be required. Presently all state candidate EFA returns do not tell voters how his MLA was funded at the state election. So why have an EFA return for candidates?

CONTROL OF OR THE BANNING OF DONATIONS FROM CERTAIN ESTABLISHMENTS

5.1 Without political donations our political system is thrown back to being funded by tax payers or only relying on the media to distribute party policies and messages. Yet it is the politicians who have recast the political donor as: the evil Union; the evil developer; the evil corporation etc. It was a workers union in country Central Queensland that formed the Labor party and now these same unions are "evil" for still wanting to support the political party they created.

5.2 The major problem with unions, corporations, and business organizations supporting political parties is related to the need to obtain approval to donate to political parties from the individual members; the share holders or business owners. Today with computers it would not be that difficult to have union members, share buyers etc give their permission to allow a percentage of their annual fees or a percentage of their share returns to be political donations. A political party could also be selected when ticking the box.

5.3 A union of workers is just another pressure group in our democratic system as is a master builders association or a chamber of commerce. To deny these bodies the ability to use their funds and to exercise a political voice, places the burden back onto the tax payer who is unable to object.

- 5.4 If all political donations were banned and the tax payer picks up the tab what is to stop a rich supporter helping out a candidate with a “extra funds”, or give a third party support because they are mates or a rich candidate using his own funds? Then we are right back to where we are today without the declaration of the donors and spending.

Conclusion One to Control or Banning donations

- 5.5 In a free democratic society I do not believe that there is a valid reason to single out the political voice of any correctly established entity and stop that entity from donating to the political party of their choice as long as such donations are transparent to both the individual member and the community.

WHEN A THIRD PARTY BECOMES A DE FACTO POLITICAL PARTY FOR LOCAL AUTHORITY ELECTIONS

The Requirement for disclosure before an Election

- 6.1 In the 2004 Local Government Election the formation of, and operation of the massively funded third party called Tweed Directions Inc led to the sacking of the Tweed Shire Council after an Inquiry into Governance. (See Enclosure Three, Paragraphs 17 to 32 which briefly tells the whole story.)
- 6.2 The problem was caused by the third party acting as a de facto political party and then taking no responsibility for its perpetration of fraud and misrepresentation because it was dissolved after the election and the successful candidates it supported were left to try to distance themselves from the unethical and disgraceful actions of Tweed Directions Inc. This is amplified in a small regional community. Further the community was left with the perception that the single industry source of the funds (The Land development industry) provided the councillors with a conflict of interest when these funding developers submitted applications for their approvals in the future. (Enclosure Three, Paragraph 27 and 30)
- 6.3 The result of these practices before the Tweed Shire election by Tweed Directions Inc led to a highly cynical and highly protesting community that led to an Inquiry to investigate the ability of the Council to perform its duties under the Local Government Act 1993. The Inquiry was related to governance not corruption.

I OFFER PARAs 6.4 and 6.5 as examples on “How far developer funded Candidates will go to justify their position”.

- 6.4 Further many members of the then complaining Tweed Community became disgusted with the formation of a group called “Fight Back” that claimed to use the concept of “democracy” while using conservative politicians (Mr Andrew Fraser MLA) to deny a democratic government the right to establish an Inquiry under Section 740 of the Local Government Act 1993.

- 6.5 This "Fight Back" group tried to convince their supporters that the Inquiry was about corruption and they will be sacked even though corruption will not be proved. Both Daly Reports are full of examples of attempts to deceive and mislead the Inquiry by those who were involved with Tweed Directions Inc so it was not surprising when they went to the effort to mislead their own supporters about the Inquiry. . (See Enclosure Nine an extract from the Second Daly Report Pages 540 to 560 headed "Governance and the Community" if you want detail of this action.)
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- 6.6 After this experience and loss of a Council many community leaders were calling for the candidates in Tweed's future Local Government elections to provide a declaration of donors, including donors to any third party and details of all spending one week before elections. This simple change to the timing of the EFA declaration would put an end to all the lies, frauds, personal attacks and half truths packaged as spin which was designed to mislead. Voters would then be given a chance to know the backers of the candidates for which they vote.
- 6.7 This concept of "declarations before the election" need only apply to Local Government elections because genuine political parties are transparent to the community and remain around after elections to accept responsibility for their actions during political campaigns.
- 6.8 The Tweed Shire Council public Inquiry by Professor M Daly addressed this whole situation in its Second Report in both its Findings and its Recommendations and went into detail in Recommendation 3. I have included the relevant sections the Recommendations in Enclosure Four and draw the Committee's attention to Recommendation 3. In Enclosure Five I have included a number of relevant Findings of the Second Report of the Daly Inquiry.
- 6.9 I urge the Committee to look over the whole two Reports of the Daly Inquiry and see what is transpiring in our Australian Democratic system where big money is robbing us of our equity and our democracy with USA type dirty muckraking election Campaigns
- 6.10 The Committee should be aware that the Second Report to the Daly Inquiry was in part challenged in the NSW Court by Paul Brinsmead who won his case. As a result the whole of the second report has been removed from the Inquiry Reports list on the NSW Local Government site. I have included the relevant parts of the Findings and the relevant Recommendations of this Second Report and blacked out names that I believe were part of the Court case.
- 6.11 I strongly believe that the first three Recommendations of this second report are very relevant to the Select Committee on Political Funding. If our democratic system is ever to be extended to and maintained in all future Local Government elections then such detailed findings and recommendations that have been obtained after considerable investigation must be considered.

- 6.12 Failure to consider the results of the Daly Inquiry and make some changes to our electoral controls and processes at Local Government elections that are aimed at limiting the de facto Political Party funding that contributed to the Inquiry will simply continue the potential for future poor governance in all our Local Government areas. It will also continue the election of factions which are seen to have conflicts of interest as they do not represent the community.

Conclusion Two to Control or Ban Donations

- 6.12 o stop the practice of massively funded special interest third party corporations being temporarily created to act as a de facto political party to win the control of a Local Government Authority all third party donations should be declared in detail seven days before the Local Government election. Also see Recommendation 3 of the Second Report (Page 950) of the Tweed Shire Council Public Inquiry by Professor M Daly.

Final Comment

- 7.1 For those members of the Committee who wish to further understand the extent to which a Developer funded third party would go to act as a de facto Political Party with the aim of controlling a Local Authority I have provided selected and I believed balanced extracts from Reports on the M Daly Inquiry into Tweed Shire Council 2004/5. They are in Enclosures 6 to 9 and the subject matter is covered on Page 9 which details the titles of the Enclosures.



Laurence C Ganter