

**Submission
No 89**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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Submission to the Select Committee on Electoral and Political Party Funding

Introduction

Recognising that broad participation is essential for an effective democracy, all Australian governments have implemented electoral systems, the key feature of which is compulsory voting. Broad participation alone however, is not sufficient to ensure an effective democracy. Voters must also be well informed about the candidates standing for office and they must also be able to vote free of any intimidation.

In Australia, we are very lucky in that we enjoy a stable democracy. This is largely due to the fact that we do have broad participation, thanks to compulsory voting; voters are free from intimidation, thanks largely to our culture and the secret ballot; and finally, voters are generally well informed on political issues,¹ thanks to the availability of a range of communications media available to candidates and political parties wishing to inform or educate the public on their policies.

¹ Although in our opinion not as well informed on political processes such as differences in the preferential system of voting used in the Upper House and Lower House in the various States and Commonwealth.

The cost, in advertising, of electoral campaigns is staggering and continues to grow, not just because of competition between parties and candidates, but also because of the growing cost of advertising across all media and the growing competition between all advertisers for media “space”.

The escalating costs of communicating party or candidate policies to voters during elections has impacted on all parties, but **has affected minor parties and independent candidates most of all**. If minor parties and independent candidates are unable to effectively communicate their policies at election times because the major parties dominate communications media, then the state effectively becomes a plutocracy, rather than a democracy.

In the 2006 report by the Commonwealth Joint Standing Committee on Electoral Matters inquiring into funding and disclosure the Committee stated that “a level playing field should operate between political parties and independent candidates”.²

One of the reasons for providing public funding for political parties and election campaigns is to reduce the reliance of parties on contributions from what is seen by some as a potentially inappropriate source from donations.³ Funding programs should therefore, be designed to create a more equitable environment for all political parties, big and small, as well as independent candidates wishing to contest elections.

² Joint Standing Committee on Electoral Matters, *Funding and Disclosure: Inquiry into disclosure of donations to political parties and candidates*, The Parliament of the Commonwealth of Australia, February 2006, p. iii

³ NSW Parliamentary Library Research Service, *Election Finance Law: Public Funding, Donations and Expenditure*, Briefing Paper No 15/2001, p. 4

Prior to the introduction of public funding in NSW in 1981, it was almost impossible for minor parties to contest elections with any optimism, because of their inability to raise the finances needed to contest an election. Disclosure provisions for political donations, and the provision of public funding for political parties and election campaigns have to a certain degree moderated this outlook, and have made representation of minor party views and interests in the institutions of governance more easily achievable.

This submission recommends that the current legislation in respect of political funding disclosure be retained, and that public funding of political parties and election campaigns be reviewed, so as to provide a more equitable allocation of public funds to independent candidates and smaller parties.

Advantages and disadvantages of banning all donations from corporations, unions and organisations to parties and candidates

There is disagreement as to the extent that donations to political parties or candidates sway subsequent parliamentary voting patterns or government and opposition decisions, the argument being that political favours are bought, with donors expecting help in the legislative process, and the seeking of contracts.

Corporate Donations

In relation to corporations, the view that political favours are bought is too simplistic and short-sighted, the argument being that large corporations in particular, merely serve corporate interests, where money buys privileged access to government and ministers. In fact, such accusations, or any imputation of corruption, discourage donations from the business community and large corporations because they do not want to risk damage to their corporate image or future relations with the government.

As long as there is a legal requirement to disclose the source of donations received by parties or candidates from the business community and large corporations, and given the fact that substantial funding is needed to assist in the pursuit of public office, it would be damaging to the citizens of this state to ban such donations.

Political parties help to structure the electoral choice made by citizens in their role as voters. If the policies of a particular party or candidate have been clearly stated prior or during an election campaign, and the business community and large corporations wish to support that stated position through political donations, it would be unfair and inappropriate to subsequently accuse a party or candidate of 'being bought off'.

Significant corporate donations to political parties or candidates inevitably open channels of communication to government, ministers or members of parliament, but this in itself does not imply that an improper attempt is being made to influence political decision-making. The imputation that in seeking to open up channels of communication somehow corrupts the political process is absurd, and would be similar to accusing an environmental lobbyist, who is being paid to open up similar channels of communication with government, ministers or members of parliament of corrupt behaviour.

The Shooters Party is of the view that no attempt should be made to ban the business community or large corporations from donating to political parties or candidates prior to, or during an election campaign, as this would undermine their ability to encourage citizen participation and engagement in the political process.

Union Donations

In respect to union donations, it is a fact that perceptions, experiences and interests of voters evolve over time in response to changing circumstances. Take the Labor party for example, which the name itself suggests, was originally formed to represent the interests of a particular class of voters who

could be said were heavily unionised. The extent to which this party still represents those interests, and the extent to which those voters still support the party are debatable.

It is a fact that affiliated trade unions are predominantly Labor voters and continue to supply the bulk of the party's financial support, but it is equally true that many non-unionised members and non-Labor voters in this State have greatly benefited from policies that have been encouraged and supported by the union movement.

While we should always be mindful of any influences that would undermine our democratic system, it is indisputable that affiliated trade unions do have an influence on policy decisions, and not only within the Labor party.

Government decisions have to strike a balance between the interests and well being of many different interest groups and the State as a whole, including employees, employers, economic and environmental groups. Unions as representative groups for employees, have just as much right to be involved in the political process, by way of donations or lobbying, as business, whether small or large.

The Shooters Party believe that there would be little, if any, advantage to the citizens of this State in imposing a ban on all donations, or for that matter, introducing a limit on donations from unions to political parties or candidates.

Donations by Organisations

In relation to organisations, whether profit or a non-profit, it would be unreasonable and highly immoral to ban, or for that matter, limit how much a private individual or organisation can give to a party as a political donation. To argue for such a ban or limits on such freedoms of expression as a political donation, is affront to pluralism, a vital part of our liberal democracy.

Given the large number of organisations that operate in NSW, there would be few, if any, organisations that would not appreciate access to government, ministers or members of parliament, no matter how short-lived. But to claim that this is some source of corruption is simply wrong, and any suggestion that a donation in itself will influence government policy decisions is complete political naivety.

Most organisations are the result of a group of people coming together for an explicit purpose. They do so conscientiously, and as citizens in this democratic State, who participate and engage in the political process, they have a right as individuals, or through an organisation, to make political donations to parties they feel will best serve their interests.

Calls by some segments of the community to ban all donations made by corporations, unions or organisations to political parties or candidates because of concerns that such donations may create a potential for corruption are in our opinion, unfounded.

This position is supported by the 2006 Commonwealth Joint Standing Committee on Electoral Matters which states in its report that:

“the Committee consider that proposals to ban certain types of contribution, or limit the amounts that may be donated often arise from the apprehension of a potential for corruption and undue influence, but have not, to date, found evidentiary support”.⁴

The Shooters Party therefore recommends that the status quo be retained.

⁴ Joint Standing Committee on Electoral Matters, *Funding and Disclosure: Inquiry into disclosure of donations to political parties and candidates*, The Parliament of the Commonwealth of Australia, February 2006, p. 8

Transparency in disclosure of donations

Currently there is a discrepancy between the disclosure levels and timings that apply at Federal and State levels in NSW. Under Federal legislation, the threshold for disclosure of donations to a political party is \$10,000, whereas in NSW, it is \$1,500.⁵ Federal legislation requires parties and donors to disclose donations on an annual basis, whereas in NSW, disclosure is only required following a State election.⁶

Timing

A move to annual disclosure of donations in NSW would have the advantage of bringing NSW in line with the Commonwealth. It would also provide public access to information on who has donated how much to whom on a far more timely and useful basis than currently exists. It is of little use to receive this information following an election, and far better to receive it each year in the lead up to an election.

To the extent that this information is already supplied to the Australian Electoral Office in compliance with Commonwealth legislation, a move to simultaneous annual disclosure in NSW will reduce duplication of effort by both donors and recipients.

The Shooters Party recommends that disclosure of donations be required annually.

⁵ Select Committee on Electoral and Political Party Funding, *Discussion Paper*, NSW Parliament, November 2007, pp. 9, 11

⁶ NSW Parliamentary Library Research Service, *Election Finance Law: Public Funding, Donations and Expenditure*, Briefing Paper No 15/2001, p. 14

Transparency

The 2006 inquiry by the Commonwealth Joint Standing Committee on Electoral Matters recommended,

“that higher thresholds for the disclosure of political donations would encourage individuals, small business and other organisations to make donations to political parties and candidates.”⁷

This recommendation is in conflict with that Committee’s recommendation for a high degree of transparency in donations.⁸ In our opinion any increase in the threshold for anonymous donations will decrease the degree of transparency, not increase it.

If indeed, increasing the disclosure threshold would encourage more private donations, it would be the large established parties that are more likely to benefit from this, further distorting the level of funding available to small parties and independent candidates.

The Shooters Party therefore does not support increasing the threshold for disclosure.

⁷ Joint Standing Committee on Electoral Matters, *Funding and Disclosure: Inquiry into disclosure of donations to political parties and candidates*, The Parliament of the Commonwealth of Australia, February 2006, p. 8

⁸ *Ibid*, p. iii

Advantages and disadvantages of introducing limits on expenditure in election campaigns

Political parties today have developed sophisticated campaign techniques funded through the public sector and by large donations, which are necessary to meet the massive costs in the pursuit of public office, and more importantly, to ensure and encourage citizen participation and engagement in the political process.

The costs associated with an election campaign have markedly increased since the 1970s and continue to do so because of the huge expenses incurred by parties and candidates in political advertising and their increased dependence on radio, television and the print media.⁹

Any proposal to introduce limits on expenditure in election campaigns would need to be directed at providing greater parity between the campaign budgets of large political parties and independents or small parties. Such limits would be impractical to police in real time, in the run up to an election, and if a party was found to have exceeded such a limit when all the expenses are collated and submitted to the Electoral Commission following the election, it would be too late to impose any relevant and meaningful penalty.

Rather than introducing limits on expenditure in election campaigns, it is imperative that appropriate safeguards are in place to protect and ensure the integrity and transparency of donations, which should thus ensure the continued integrity of the democratic process and thereby the political system as a whole.

The 2006 Commonwealth Joint Standing Committee on Electoral Matters supports this view and stated in its report that:

⁹ NSW Parliamentary Library Research Service, *Election Finance Law: Public Funding, Donations and Expenditure*, Briefing Paper No 15/2001, p. 4

“high degrees of transparency in donations to political parties and candidates should reduce the potential for undue influence and corruption in the political system”.¹⁰

The Shooters Party recommends that no limits be placed on expenditure by political parties or candidates in an election campaign.

¹⁰ Joint Standing Committee on Electoral Matters, *Funding and Disclosure: Inquiry into disclosure of donations to political parties and candidates*, The Parliament of the Commonwealth of Australia, February 2006, p. iii

The impact of political donations on the democratic process

The intermediary linking governments and citizens is the party system and the electoral system. Political parties help structure the electoral choice made by citizens in their role as voters, and political donations encourage citizen participation and engagement in the political process.

A key aspect of this electoral system is an ability to raise sufficient finances that can provide a party or candidate with the financial and organisation support needed. Therefore, public funding and political donations to parties or candidates and their election campaigns is a central feature of the electoral process.

That ability to raise sufficient funds during an election has an effect on the likely outcome of the poll is an indisputable truth of our democratic and political process. The amount of money available to a political party or candidate for advertising and public education during and prior to an election campaign does have a big effect on their ability to convey its message to the voting public.

The Shooters Party believes that no attempt should be made to scale back public funding for political parties or election campaigns, ban or impose limits on such freedoms of expression as a political donation, for this would certainly undermine the very link between government and its citizens through the electoral process and the interests of its voters.

Political Education Fund

In NSW, registered political parties receive annual payments for political education, including posting written material, through the Political Education Fund, established under the Election Funding Authority.¹¹

The Shooters Party is in the rare situation of being able to say that it has spent money on educating voters, particularly in regard to pointing out the difference between the Upper House and Lower House systems, with the aim of educating the voter, and ensuring that the voter records a valid preference at the polls. The Shooters Party spent an estimated **\$164,000** on this alone prior to the last State election, yet, it remains ineligible for funding under the Political Education Fund.

The Political Education Fund was established in 1993, following recommendations of another Parliamentary Joint Select Committee. An annual appropriation is made to the fund of an amount equal to the cost of one ordinary postage stamp for each elector in the State.¹²

¹¹ Election Funding Guide for Parties for State Elections, *Part E: Funding for Political Education*, NSW State Election 2007, p. 47

¹² NSW Parliamentary Library Research Service, *Election Finance Law: Public Funding, Donations and Expenditure*, Briefing Paper No 15/2001, p. 52

In recommending the establishment of a Political Education Fund, the 1993 Parliamentary Joint Select Committee expressed the view that:

“The important function of political education of the voting community is not presently assisted by the state in any real way but is left largely to the political parties. As this imposes a considerable burden on them the committee supports the creation of a political education fund based on the cost of one standard postage stamp per elector per year...This money may be expended on political education and educational material only...”¹³

The Shooters Party believes that the current system is inequitable.

Funding to political parties is currently calculated on the number of first preference votes received by candidates endorsed by the party for election to the Legislative Assembly at the previous general election.¹⁴ However, political parties that stand candidates only in the Legislative Council are currently not eligible for this funding, even when they have been successful in having members elected to the Legislative Council. The Shooters Party has two members in the NSW Legislative Council, but is not eligible for funding from the Political Education Fund.

The Greens NSW for example, at the last general election, fielded candidates for the Legislative Assembly in every seat in the State, but managed to win none. Yet, by virtue of first preferences received, they are entitled to a substantial cut of the Political Education Fund.

According to the Election Funding Authority Annual Report for NSW for the period 2005/2006 and 2006/2007 in relation to claims made under the Political Education Fund, the Greens NSW claimed and were paid \$184,002 for each year.¹⁵ The Shooters Party on the other hand, remain ineligible for a cut from

¹³ *Ibid*, pp. 46-47

¹⁴ *Ibid*, p. 47

¹⁵ Election Funding Authority Annual Report 2005-2006, *Political Education Fund*, p. 24 and Election Funding Authority New South Wales Annual Report 2006-2007, *Political Education Fund*, p.23

the Political Education Fund, despite receiving 106,513 votes in the Legislative Council at the last State election, as opposed to 347,548 votes by the Greens NSW.¹⁶ Likewise, the Christian Democratic Party (Fred Nile Group), which received 168,545 votes in the Legislative Council at the last State election,¹⁷ received only \$32,986 from the Political Education Fund in each year for 2005/2006 and 2006/2007 based on first preferences received in the 44 seats they contested in the Legislative Assembly.¹⁸

It is obvious that the original intention of distributing funds on the basis of the electoral performance at the previous general election is not being achieved, as some minor parties are only represented in the Legislative Council. The electoral performance of these parties is not being recognised under the current formula for funding for political education.

The Shooters Party recommends that the funding formula for the Political Education Fund be reworked, so as to recognise the performance of parties in the Legislative Council and/or the Legislative Assembly. This would require increasing the allocation of funds by approximately \$100,000.

¹⁶ New South Wales Electoral Commission, *Legislative Council Election 2007 - Quota Report*, Group Totals for The Shooters Party and The Greens

¹⁷ *Ibid*, Group Totals for Christian Democratic Party (Fred Nile Group)

¹⁸ Election Funding Authority Annual Report 2005-2006, *Political Education Fund*, p. 24 and Election Funding Authority New South Wales Annual Report 2006-2007, *Political Education Fund*, p.23