

**Submission
No 82**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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SUBMISSION FOR THE NSW LEGISLATIVE COUNCIL INQUIRY INTO POLITICAL FUNDING

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Democracy Watch is a non-profit, non-partisan, citizens' group. We are committed to achieving sweeping reforms to dramatically curb the excessive influence of 'big interest' money on our elections and government decisions at the federal, state, and local levels.

For further information, see www.democracywatch.com.au

Introduction

Australia's laws and practices overseeing financial donations to political parties and candidates have become a serious threat to our democracy. The current legislative framework overseeing these donations is wholly inadequate, riddled with loopholes and invites corruption.

The policy outcomes of our governments are being improperly influenced by huge corporations, powerful trade unions and wealthy individuals. Every year the major parties collect what amounts to millions of dollars. That sort of money corrupts. Both ALP and Liberal governments have accepted huge corporate donations from organisations that have then gone on to make enormous financial benefits from government decisions.

There is a growing concern that our politicians are catering to those who funded them into office and that our elected 'representatives' are supporting policies that are not always in the best interests of the Australian people.

Some donors are securing their influence by making equally enormous donations to both the major parties. Worse still, creative accounting and shady 'front organizations' are used to allow rich and powerful donors to mask their identity.

Nobody should believe that huge donations are given because of any altruistic enthusiasm for democracy. Even if there is no direct undertaking on behalf of the beneficiaries, clearly it's about buying influence. These donations are predominantly just bribes and our democracy is literally being 'bought'.

BRIBE – as defined by the Collins English Dictionary; "To promise, offer, or give something, especially money, to (a person) to procure services or gain influence."

The control of our parliaments by political parties and politicians riddled with donor cash should not be seen as anything other than the breakdown of fundamental aspects of our democracy. The time has come to seriously confront this cancer in our political system.

There are grounds for hope. Political systems do exist where there are much tighter restrictions on 'money-politics'. There are reforms that have proved successful elsewhere that are crying out to be implemented in our own country. We should be aiming at being the world leaders in probity, transparency and removing the

influence of 'money-politics'. Particular attention needs to be given to recent reforms in the UK, Canada and New Zealand.

WHY SHOULD SPECIFIC GROUPS LIKE ENVIRONMENTALISTS, FAMILIES AND BUSINESSES BE CONCERNED ABOUT THESE 'BIG INTEREST' DONATIONS?

Why environmentalists should care about money in politics.

Environmentalists sometimes assume that natural resource protection depends only on cultural changes or advances in science. This assumption is only half true. How our elections are financed is a serious hurdle in the way of environmental protection. Anti-environmental special interests groups pollute our democratic process with huge donations. A large majority of Australians believe that protection of the environment should be a major priority of our governments, yet our state and federal governments have very poor track records on environmental issues. The current campaign finance system makes it possible for industries that are responsible for some of the worst pollution problems facing our country to use millions of dollars in political contributions to buy political access and political influence.

Why consumers and families should care about money in politics.

Families also should care about money in politics because of the serious harm that alcohol, tobacco and gambling do to family life. Big corporations representing these threats give huge donations to the major political parties, thus blocking the possibilities for reform.

Working families are being hit hard by rising costs for medicine rates - costs made higher by the influence of the campaign contributions by pharmaceutical companies. The campaign money chase allows pharmaceutical companies, health insurers, and other big-money special interests extraordinary access to lawmakers. It gives vested interests influence to shape public policies that directly affect the lives of Australia's seniors.

Banks are also huge donors to the major parties and the banks have benefited accordingly, all to the detriment of consumers and families.

Developer donations to parties has resulted in developments going ahead without proper consideration of local residential amenity and family life.

These are just a few examples of the threat that these donations are to our families and our communities.

Why business should care about money in politics.

In order to thrive, our economy needs a climate of public confidence in the workings of our major institutions, including government. When so many citizens believe that big money corrupts elected officials, trust in our political system is eroded. Campaign donations distort the workings of a free market by favouring big corporations whose leaders contribute large amounts of money to campaigns. Consumers and small business are hurt in the end. Big campaign contributions can also stifle new

innovations by artificially propping up outdated products or systems as “pay-backs” to wealthy donors.

Many business leaders resent the pressure on them to constantly increase the amount of funding they provide for election campaigns. They wish to compete in the marketplace, not in the political area. The current campaign finance system undermines democracy and essentially forces politicians to shake down business leaders in order to remain in office. As political fund raising has become more lucrative, the strain on business has increased exponentially.

John Curry, Australian Shareholders Association Chairman agrees with the concerns about corporate donations.

“Whether the expectation is real or simply perceived, it is not in the interest of democracy... It’s almost a form of bribery.”
(P17 SMH 21/5/04)

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BELOW ARE JUST A FEW QUOTES THAT SPEAK FOR THEMSELVES.

*REPORTER: Do you think they listen to you because you give good donations?
JOHN THORPE, HOTELS ASSOCIATION: Look, democracy’s not cheap.
Democracy’s not cheap. And your firm and your company—everybody’s involved with assisting political parties because at this stage we need to keep these people in place to have the democracy we have today. (ABC TV Stateline program, 20/02/2004)*

Leighton Developments chief executive Wal King, on his reasons for donating buckets of loot to both ALP and Liberal parties,

“If you don’t do it, there’s a chance of getting a black mark against your name. It’s like giving your wife flowers - why wouldn’t you do it?” (Sydney Morning Herald 02/02/2002)

Lend Lease spokesperson "The board always tries to donate equal amounts and regards it as supporting the democratic process which is necessary to preserve the society in which Lend Lease carries out is business." (The Daily Telegraph, 06/02/2000.)

Postscript: According to Lend Lease they no longer make political donations because of the "perception that it seemed to conjure up in the industry of what you got in return." (The Financial Review, 13/10/2003)

At the 2005 NSW ALP State Conference the assistant secretary, Luke Foley, accused former state secretary and Upper House MP Eric Roozendaal of orchestrating the stacking of the Bondi ALP Branch to assist local developers. "Follow the dollars and you will find Eric Roozendaal at every turn", Mr Foley said. (The Financial Review, 06/04/2001.

"It disturbs me, as it should all citizens, that there are some who are more equal than others. Corporations do not make large donations out of a charitable impulse or a commitment to civic duty... We do not know how much is being spent to inform, persuade and cajole our decision-makers. It is time we subjected the process to scrutiny, and judged the decisions of our governments knowing who has been in their ears."

(Carmen Lawrence, then ALP President.)

"The sharply rising cost of funding election campaigns is making the ALP more and more reliant on large donations from the corporate sector. This compromises our ability to develop and implement policy that may offend the corporate sector much more than it does the Liberal Party, who proclaim the sector as their natural constituency. It's interesting that those who want a value-free ALP have little problem with corporate donations.

To be clear, the ALP needs to develop relationships with the corporate sector along with all other sectors of the community. But no non-party relationship should be characterised by dependence. It is becoming the case that the ALP literally cannot afford to lose a significant number of large corporate donations, and this must play on the minds of our key decision-makers.

From the 1995 to 1999 state elections, campaign spending by all participants blew out from \$13 million to \$23 million, and the gap between costs and public funding more than doubled from \$6 million to \$13 million. This gap is only funded by private means. The ALP increased its TV advertising alone from \$1.4 million to \$4.5 million. Some of this money is still raised by a lot of people paying modest amounts. But more and more is raised in large donations of \$10,000 or more.

The NSW ALP took 78 different donations of this size for the 1999 election, with donations from the corporate sector outweighing union donations by a factor of six-to-one. We took over \$900,000 from developers and construction companies, over \$300,000 from the finance sector and \$73,000 from the tobacco industry, to name a few, in a total of over \$3 million.

Last year, Paul Keating called for developers' donations to be banned because of their eventual effect on the urban environment. Paul Keating knows how the wheels really turn in politics. Bob Carr said he'd look into it. We're still waiting.

It's not in the interest of a party of reform or our political system for this addiction to continue growing to US levels. It affects the integrity of the political system, and fosters disengagement with the wider party and the electorate. We urgently need to revisit this matter as a federal-State policy issue and the Carr Government must look

at options, including limiting election costs, the size of donations to all parties and, possibly, increases in public funding (which was introduced, after all, to stop private influence over the political system).”

Damian O’Connor, Assistant General Secretary within the NSW Australian Labor Party (*Excerpt from article on the Evatt Foundation website, 18/03/2002.*)

MYTHS

Even the most inaccurate assertion, if repeated often enough, assumes an air of truth when left unchallenged. So it is in virtually every field of human endeavour—but most particularly in the world of politics, where exaggeration and misrepresentation are sometimes considered an art form.

It is no surprise that some of the most common assertions about money in politics are highly misleading if not altogether false. These “myths”—frequently repeated in the press and in parliamentary debates—cry out for debunking.

For anyone interested in solving the problem of money in politics, the first step is distinguishing myth from reality.

Myth 1: “The special interests balance each other out.”

There is indeed a vast array of “special interests” with lobbyists who attempt to influence public officials at every level of government - federal, state, and local. There are thousands of special interest groups in Australia. The real question, however, is not how many special interests there are, but how much financial clout they have. Here there is very little “balance.” Heavy-hitting campaign contributors who vastly outspend their opponents are as much in evidence at all levels of government. Many “special interests” have virtually no financial clout at all. For example, of the thousands of special interest groups that donated \$40,000 or more, none represented poor people, parents of public school children, unemployed or under-employed workers, small banking depositors and borrowers, families unable to afford to own their own homes and those without any homes, or people dependent on public housing, public transportation, public recreational areas, public libraries, and public hospitals. Those who make big donations do so not in the interest of the public good, but in the interest of corporate or personal gain.

Myth 2: “Making campaign contributions is one of the primary ways that Australians participate in our democracy.”

People with high incomes are much more likely to contribute to local, state, or federal candidates than those with low incomes. Of the 20 million people who live in Australia.—fewer than 1 percent, gave direct individual contributions of \$200 or more. As for the big corporate donors, no one should believe that money is donated because of any altruistic enthusiasm for democracy. It’s all about buying influence.

Myth 3: “Privately financed election campaigns don’t cost taxpayers any money.”

The actual cost of privately-financed campaigns may not come from tax monies, but the consequences of such campaigns are costing taxpayers billions of dollars. These consequences include the myriad tax breaks, subsidies, bail-outs, regulatory

exemptions, and other “favours” that elected officials routinely perform for their financial backers.

Myth 4: “It’s always been this way and always will be.”

For generations people have thought various institutions and policies were impossible to change. Yet history shows that the labour movement, the civil rights movement, and the women’s movement did away with many unjust laws and practices. The history of democracy is the history of periodic waves of protest followed by evolutionary change. Our “long habit” of thinking that privately financed elections are compatible with democracy has already begun to change. Indeed, there is nothing more powerful than an idea whose time has come.

Apologists for the status-quo in Australia often argue that reforming our electoral laws is “just too hard” or that “it can’t be done”. There is no substance to this argument. As evident below, there are many countries that have implemented the very reforms that are desperately needed to be considered for Australia.

- . 40 countries, including Canada, USA, UK, Iceland, Ireland, France, Canada, Poland, Japan, Israel, Brazil, Argentina and others, have banned foreign donations.
- . 30 countries, including Canada, Belgium, France, Ireland, Spain, Israel, Japan and others, have laws specifying a maximum amount that a single donor can contribute.
- . 22 countries, including France, Israel, Hungary, Poland, Portugal Argentina, Brazil and others, have various types of bans on corporate donations to political parties.
- . 27 countries, including France, Belgium, Spain, Portugal, Italy, Hungary, Brazil, Argentina have bans on donations from government contractors.
- . 9 countries, including Portugal, Mexico, Bulgaria, Brazil and others, have imposed a maximum amount that a party can raise overall.
- . 17 countries, including France, Portugal, Poland, Israel, Brazil, Argentina and others, have a ban on trade unions donations to political parties.
- . 27 countries, including Canada, UK, Spain, New Zealand, Poland , Portugal, Belgium and others, have imposed a ceiling on overall party election expenditure.

Source: International Institute for Democracy and Electoral Assistance. Funding of Political parties and Election Campaigns Handbook. 2003

A NATIONAL SUMMIT

The key policy of Democracy Watch is the call for a National Summit to develop a national strategy to fundamentally reform, in a coordinated manner, the financial donations legislation for both the federal and all state systems. To achieve maximum

financial transparency and probity throughout the Australian political system the Commonwealth and State governments must all fundamentally reform, in a coordinated manner, their financial donations legislation. Money is fluid and will be shifted around through 'back doors' unless all those doors are shut. Some good reforms could occur at state level, but with weak federal laws it means there are serious limitations as to what can be achieved at an individual state level. The same applies in reverse, good reforms solely for the federal electoral system will be seriously limited if all state laws are not also all properly reformed. The chain will only be as strong as its weakest link.

I acknowledge that reform options are varied and complex and there is no single 'right answer' or perfect solution. Even the best options are imperfect to some degree. Yet this must not be used as an excuse to continue with a system that has some of the worst faults imaginable.

With all our state governments and the national government being ALP governments we are briefly looking at an historic opportunity for coordinated reform of all 3 levels of Australian government. I believe that the overwhelming priority of this committee should be to urgently lobby for a National Summit.

The issues and legalities concerning money politics is complex but a National Summit would have to at least consider the following reform proposals:

- . Donations to be immediately and publicly declared.
- . The original source of all donations to be declared.
- . Corporate and individual donations be outlawed totally or at least restricted to an upper limit, say \$1,000.
- . Donations from foreign entities to be banned.
- . Corporations, unions and organisations to be required to have shareholder/member approved political donations policies.
- . Campaign expenditure limits.
- . Tighter controls over the 'independent' campaign spending by the supporters of political parties and candidates.
- . Reforming electoral funding to promote political equality.
- . Increased penalties for breaching funding laws.
- . Political Party donations disclosures to be accompanied by a report from an accredited auditor.
- . Adequate resources to be provided to the Australian Electoral Commission to effectively enforce political funding regulations.

The National Summit would need to be of sufficient time for proper consideration and a comprehensive debate of the reform options. The National Summit attendees should consist not just of politicians but also a broad range of legal experts, academics and community representatives.

The call for a National Summit has broad support. For example, at the 2006 NSW Local Government Conference, hundreds of delegates voted unanimously to support the motion below.

'Given that laws and practices relating to financial donations to political parties have become a serious risk to our democracy, the Local Government Association calls

upon the Federal Government to convene a National Summit to develop a national strategy to fundamentally reform, in a coordinated manner, all the financial donations legislation for all 3 levels of Australian government; i.e.: Federal, all State Governments and all local councils.” (See LGA 2006 Annual Conference Page 1 Record of Decisions.)

CONCERNS ABOUT THE POLITICS OF THIS INQUIRY

It is no secret that the major parties are being strangled by these donations. Indeed, it is now time our political parties were saved from themselves. Yet the experience is that it is never quite the right time for the major parties to reform the system or reform themselves. After all, the major parties created for themselves the legislative structure of our campaign finance laws. The major parties, being the beneficiaries of this system, have resisted any attempts at any serious reforms that threaten their privilege. It is a blatant conflict of interest.

This is not the first time our political and electoral funding systems have come under formal parliamentary examination. Other inquiries have come to nothing, avoided the real issues or actually made retrograde steps (such as the hilariously named Federal Electoral Integrity Act of 2006).

This raises the question as to whether this enquiry will be a genuine attempt at reform, or will this be just another cynical exercise in issue management? I think the answer to that will largely be determined by the amount of pressure applied to our political leaders by the public and the media. It is my view that real change will not occur without such pressure.

With this in mind, I would like to object to the make up of the committee. For Lee Rhiannon MLC to be denied a position on the committee speaks volumes as to the politics of this issue and the politicised handling of the formation of this enquiry. Lee Rhiannon has been the most active spokesperson in the Parliament on this issue and has overseen the Democracy4sale website. Her exclusion is widely seen as a fumbled attempt at muzzling an important voice. The committee is now be seen by some observers as lacking legitimacy. But there is a way for the committee’s image to be redeemed. This will be addressed in recommendation 3.

SUBMISSION RECOMMENDATIONS:

RECOMMENDATION 1

That the Committee recommends that the NSW Parliament votes to call upon the Federal Government to urgently convene a National Summit to develop a national strategy to fundamentally reform, in a coordinated manner, the financial donations legislation for both the federal and all state systems.

The issues and legalities concerning money politics is complex but a National Summit would have to at least consider the following reform proposals:

- . Donations to be immediately and publicly declared.
- . The original source of all donations to be declared.
- . Corporate and individual donations be outlawed totally or at least restricted to an upper limit, say \$1,000.
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RECOMMENDATION 2

In recognition that recommendation 1 may not succeed, it is imperative that the committee still proceed with preparing a draft bill for the radical overhaul of the political funding legislation in NSW to ensure NSW adopts the best practises possible in electoral and political funding. The draft Bill should draw particularly on the legislative frameworks of New Zealand, Canada and the UK and to at least consider the following reform proposals:

- . Donations to be immediately and publicly declared.
- . The original source of all donations to be declared.
- . Corporate and individual donations be outlawed totally or at least restricted to an upper limit, say \$1,000.
- . Donations from foreign entities to be banned.
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- . Reforming electoral funding to promote political equality.
- . Increased penalties for breaching funding laws.
- . Political Party donations disclosures to be accompanied by a report from an accredited auditor.
- . Adequate resources to be provided to the Australian Electoral Commission to effectively enforce political funding regulations.

RECOMMENDATION 3

That the committee immediately call on the Premier and Leader of the Opposition to formally move to have Lee Rhiannon MLC included on this committee.

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I would like to thank the committee for considering this submission.

Regards,

Brad Pedersen