

**Submission
No 114**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

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Date received: 14/02/2008

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Summary

The public funding and oversight of the democratic and Electoral process in NSW is in urgent need of reform. The reasons for this are threefold:

- Public perception of impropriety and undue influence by powerful, wealthy and secretive private corporations or individuals in the determining the outcome of elections has reached that point where many members of the public no longer have confidence that the democratic process delivers a fair and just outcome for the benefit of the community.
- The tendency of political parties and groups to exploit loop-holes in Electoral Funding legislation to ensure maximum fund raising opportunities with little or no regard to effect on public confidence and trust in the fairness and equity of the democratic process. This is especially evident in the misuse of public facilities for private political advantage; such as fundraising dinners conducted in Parliamentary precincts.
- The ease with which third parties who have donated services and or donations 'in kind' to election parties, groups and/or candidates can hide their identity from the Electoral Funding Authority. These secretive relationships between anonymous third parties and candidates or groups standing for election in local and state elections have damaged public trust and confidence in the democratic process in NSW.

Election Funding Authority

Current operations of the authority must be supported by the provision of financial, administrative and legal frameworks to ensure that the Authority is independently equipped to detect and report on the efficacy and fairness of the funding of the electoral process. Sound public administration in NSW rests on Parliament as the legislature being seen to be free of bias purchased by private interest companies and individuals.

Public Funding

Currently much of the funding of Political parties and candidates benefits two groups: the advertising industry and mass media. In essence the administration of public election funding is a funnel by which public funds are paid to political parties who then pay the majority of those funds to advertisers and marketers in the mass media.

This system is, in essence, inequitable because of the disparity in funding between the major parties and independent candidates and smaller registered parties. The appendix to the discussion paper provided by the Select Committee is evidence of this disparity. The effect of current methods of payment has resulted in a narrowing of political views articulated in the media, essentially to the views of the two major parties and little else. Therefore, if the select committee wishes to ensure a free, open and democratic election process in which a range of political views are expressed to the community, then this aspect of funding needs urgent reform.

One option is the direct and capped payment of all election campaign material by registered candidates and/or parties directly to advertisers or their agents. This would

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place on a limit on the amount of 'media buy-in' that parties and individuals can make on their own behalf or on behalf of third parties, and this would create a more equal playing field in which the community could hear a range of political expressions, and this would enhance the democratic process in this state.

The importance of this reform can be seen by looking at the result of local government elections in the Port Macquarie – Hastings LGA of 2004. By exploiting a loop hole in the public accountability of the funding of political parties and groups in NSW, GROUPS A – C (Known as the YES Team - who were essentially representing the same range of conservative political opinions which broadly reflected the views of the locally dominant National Party platform) were able to hide the private sources of approximately \$80,000 in election donations or gifts or 'in kind' donations – and this translated into a massive media 'buy in' the local media that no other candidates in that election could match.

The outcome of this tactic distorted the local democratic processes and has now led to an expensive and divisive public investigation into the affairs and conduct of Port Macquarie Hastings Council. In essence, those elected to Council from Groups A – C have appeared to form the view that they owed the public little, if any, accountability for decisions made in chamber. This attitude, evidenced in controversial decisions that largely ignored community concerns, resulted in a range of members of the public then forming the view that many of Council's decisions reflected the private interests of those who had provided the secret campaign donations that allowed the three groups to dominate the campaign with a rich variety of advertising and marketing material.

Democracy must be vigilantly protected from private interest groups who are determined to ensure that laws, policies and decisions made by legislatures reflect their private interests, and not the legislative agenda of the people. For this to happen, the Electoral Funding Authority must be equipped to independently investigate and monitor the fairness and equity of the electoral process in an environment in which media spends on campaign material are publicly paid for and capped to ensure all registered voices have equal access to the community whose views they represent. The Authority must be given the capacity to subpoena witnesses and require statements of truth in relation to the sources, amounts and political effect of political and campaign donations.

Political donations

Given recent public unease with the comparative wealth and privilege of the major political parties in NSW, it is also time to consider capping the amount paid to political parties by private interest groups, whether they be unions, corporations, individuals, charities, or other third parties. Public confidence in the rule of law, best expressed as a Parliament free of undue private bias and interest is the best way of ensuring public trust in democratic institutions.

The reasons for the necessity of this reform can be seen in the case study provided by the local government elections of 2004 ad mentioned above. Wealthy private benefactors, with an undue influence in the electoral process, are always bad for good government in a democracy and a menace to sound policy formulation. The committee must ensure that all donations are disclosed to the public what ever their source or nature.

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The sources of private donations must also be of interest to the committee, for example when a government is determining policy about widgets, for example, is it in the public interest to have the manufacturer or importer of widgets making massive donations to the elected official or party responsible for deciding this matter, with the clear intention of influencing that policy or decision? Clearly not. Therefore, the electoral funding authority needs a rigorous and transparent mechanism for monitoring the timing, source, and impact of donations to political parties or groups; especially where the payment of those donations can be perceived by the public as corrupting the public policy making process.

The funding authority needs a well resourced and professional investigative branch which can take complaints or concerns from the public and both investigate and report on their findings to Parliament, and if necessary to the police and DPP for criminal charges. If laws currently do not treat the corruption of the democratic process as a crime, then the Criminal code should also be examined for amendment, because an attempt to corrupt the electoral process is an attempt to corrupt public trust in the free and open conduct of elections and this must be seen by the community as one of the most serious of all crimes, as it touches the public and private affairs of every person in the state.

Both perceived and real corruption of public policy and decision making processes must be acted on with vigour by those entrusted with protecting the rule of law from those who are determined to corrupt that process for their own or third parties gain.

This ends my submission. I wish the Select Committee well in its deliberations and hope that suggested reforms will serve the people of NSW well. As we all know from recent world affairs, democracy is a fragile and valuable privilege that must be protected if we are to enjoy the benefits of living in a community in which the rule of law, as developed by the legislature on behalf of the people, is respected by all, now and into the future.

Sincerely,

Richard Bryce BA DipEd THC

13/2/08

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