

**REPORT OF PROCEEDINGS BEFORE**

**SELECT COMMITTEE ON ELECTORAL AND  
POLITICAL PARTY FUNDING**

**INQUIRY INTO ELECTORAL AND POLITICAL PARTY  
FUNDING**

---

**At Sydney on Monday 31 March 2008**

---

**The committee met at 8.30 a.m.**

---

**PRESENT**

Reverend the Hon. Fred Nile (Chair)

The Hon. Robert Brown  
The Hon. Amanda Fazio  
The Hon. Jennifer Gardiner  
The Hon. Don Harwin  
The Hon. M. S. Veitch

**CHAIR:** Welcome to the third hearing of the Select Committee on Electoral and Political Party Funding in New South Wales. This morning the committee is hearing evidence via teleconference from two witnesses who are unable to attend in person: Dr Joo-Cheong Tham from the University of Melbourne, who currently resides in Cambridge, and Dr Simon Longstaff, Director of the St James Ethics Centre, who will speak to us from Sydney airport whilst en route to another meeting. Although the hearing is via teleconference, it remains a public proceeding and the same rules that apply to public hearings apply on this occasion. As occurs with public hearings, Hansard will produce a transcript of evidence, which will be published and placed on the committee's website.

**JOO-CHEONG THAM**, Senior Lecturer, Law Faculty, University of Melbourne, examined via teleconference:

**CHAIR:** Dr Tham, as you are not in New South Wales the committee will not ask you to take an oath or affirmation. I remind you of the gravity of today's proceedings and of the responsibilities that accompany the opportunity to speak on the public record. Do you wish to make an opening statement?

**Dr THAM:** I will make a brief opening statement. The first thing I want to do is thank the committee for inviting me to give evidence and in particular for accommodating the time difference between Sydney and Cambridge and the technological difficulties and challenges that come with accommodating that. In essence, my position as reflected in my submission is that there is a need for far-reaching changes to the New South Wales political funding regime, firstly, because of problems with transparency and, secondly, due to problems of corruption as undue influence, unfairness in electoral contests and a threat to the health of the parties. Among the changes I advocate, the main ones include greater transparency, contribution limits for individuals and tailored limits for organisations. They also include expenditure limits and a new scheme of public funding.

I should also add that if I were to nominate the two most important areas of reform they would be provisions aimed at greater transparency, including requirements for democratic party contributions, and campaign spending limits. I should stress that in my view campaign spending limits are particularly crucial. They can be seen as a kind of regulatory armistice, if you like, that properly designed will promote fairness and will take the heat out of competitive extravagance that is driving the more unsavoury fundraising practices.

I should stress the last point. If we are contemplating any reform, any changes to the regulatory framework, they must deal with the demand side of political funding, that is, the appetite for increasing campaign funds, in order to tackle the supply side problems, whether they are problems relating to undue influence or money coming from businesses and so on and so forth. One implication of that particular point is that, in my view, contribution limits are very unlikely to work without effective spending limits. That is perhaps one of the lessons from the US regulatory experience where there are extensive contribution limits but meagre expenditure controls.

The final point I want to make in my opening statement is that claims made in relation to the unworkability of campaign spending limits have been quite overstated. One only has to look at the recent reports by the UK Electoral Commission on the 2005 election or the report by the Chief Electoral Officer of Canada on the 2006 Canadian general election. You will find nothing there that calls into question the fundamental unworkability of campaign spending limits.

**CHAIR:** Thank you, Dr Tham. As you realise, there is great debate going on in New South Wales about political donations and funding. The New South Wales Premier has made an announcement that he advocates a ban on all private donations in favour of a system of public funding. Who should be covered by such a ban and would a blanket ban on donations be enforceable?

**Dr THAM:** I do not actually support a complete ban on private donations. A key point to make is that political parties need to have strong connections to society in order to perform their legitimate functions. Those functions include the ability to represent society, the people, the citizens, and the ability to offer themselves as vehicles for participation. The point to be made is that appropriate public funding can actually achieve those functions. The problem is not with private funding per se but with the type of private funding. So, in my view, big money in small sums, for instance, is highly desirable but big money in large amounts not so. A corollary of what I am saying is basically that I do not believe there should be a system of complete public funding. Perhaps we can take the 60 per cent threshold—this is the amount of reimbursement to candidates under the Canadian system—as basically a maximum limit in terms of how much a party should be financed through the public purse.

**CHAIR:** I think Canada is four-fifths?

**The Hon. DON HARWIN:** Can we clarify that, Dr Tham? Do you say that the Canadian limit is 60 per cent?

**Dr THAM:** Under the Canadian system there are various streams of public funding. What I was referring to was basically the scheme of partial reimbursement of election expenses. In relation to candidate expenses the limit at which candidates are reimbursed to the amount of 60 per cent of what they spend on their campaigns.

**CHAIR:** So you are not in favour of banning private donations 100 per cent?

**Dr THAM:** I am very opposed to that.

**CHAIR:** What restrictions would you place on private donations, if any?

**Dr THAM:** I would have limits on contributions by individuals, natural persons, and I would have tailored limits on contributions from organisations.

**CHAIR:** Do you have any figures or recommendations for those quantities?

**Dr THAM:** The contribution limits?

**CHAIR:** Yes.

**Dr THAM:** Choosing a number is going to be arbitrary to some extent. But if I were to choose a number, I would say that we structure those contribution limits as they are structured in the Canadian and US systems. So, firstly, having annual caps on contributions by individuals to each candidate or party, and I would probably nominate A\$200 to be the annual cap, and having similar caps applied to contributions to third parties. On top of that, on top of the caps that apply to particular candidates and particular parties, I would have annual caps on the aggregate contributions by individuals of \$1,000.

**CHAIR:** What figure would you apply to corporate bodies?

**Dr THAM:** What I suggest is that if commercial corporations, trade unions or non-government organisations donate, then the limit of their contributions should be based on the number of natural persons they have as members. So if, for instance, a company has 1,000 shareholders, under my system it will be able to donate \$1 million in a year.

**The Hon. DON HARWIN:** In your submission you have addressed the issue of freedom of speech in relation to campaign spending and you reject the arguments about limits on freedom of speech. However, you also canvassed the issue of the political advertising case that was before the High Court about 10 years ago. In your view, what would the committee need to do to come up with a set of spending limits that did not fall foul of the political advertising cases and that body of law that has come out of the High Court in the last 15 years?

**Dr THAM:** The first point is that the Australian Capital Television case was dealing with a ban on political broadcasting. If you are talking firstly in terms of spending limits as opposed to a complete prohibition on political advertising, it is clearly seen by the court as a much less severe limitation on freedom of communication. In terms of my submission, the point that must be firstly conceded is that clearly any expenditure limits restrict freedom of political speech. I think there can be no doubt about that.

But the question from a contribution and a policy point of view is whether they are justified restrictions. The question of whether they are justified restrictions basically raises two sub-questions: the first is, is that a legitimate aim or pressing objectives being pursued by those spending limits, and in my view there are clearly legitimate aims being pursued. They seek to protect the integrity of the system of political representation and they seek to promote fairness in politics. The second question that follows from that is whether, assuming there is a legitimate aim, those measures are proportionate to pursuing those objectives. That really is a question of carefully designing the structure and the level of the spending limits that are enacted.

**CHAIR:** It would seem, Dr Tham, if you had a spending limit it would make a level playing field for each political party, whereas one party may have access to great funds, as is happening in the United States, and can swamp the smaller parties. So should there be a limit on spending?

**Dr THAM:** I definitely think there should be a limit on spending. The way to think about spending limits is that they really provide a ceiling. They promote fairness and, if properly designed, in my view they promote a more level playing field. But you also need various other measures to actually ensure a meaningful level playing field. All a ceiling does basically is prevent excessive spending. It does not necessarily mean that smaller parties are able, for instance, to wage a meaningful campaign.

**The Hon. DON HARWIN:** You mentioned in your opening statement about the UK Electoral Commission report in 2005 and the Elections Canada report in 2006. Just quickly, what sort of issues did they raise in terms of how the spending limits work and the particular challenges that those two organisations faced in recent elections in those two countries?

**Dr THAM:** Both reports, as I mentioned in my opening statement, basically do not give any support to the view that spending limits are fundamentally unworkable or unenforceable. In terms of the issues they noted, compliance and so forth, the Canadian system has been in existence since the 1974 Election Expenses Act, so it is quite a longstanding system of spending limits. The issues they confronted at that point in the 2006 election were quite different from, for example, the issues confronted by the UK Electoral Commission, which had spending limits in relation to parties only as a result of the 1988 Act. The UK Electoral Commission noted basically issues about, if you like, bedding down the system and advising parties as to what they could actually spend on and what would count towards expenditure and so forth.

**CHAIR:** Before we go on to public funding are there any questions on this area.

**The Hon. DON HARWIN:** You recommend imposing a ban on donations from government contractors. How workable is that? You talk about the Canadian and the American rules but it seems to me that the Canadian rule, which is that if you derive more than 50 per cent of your money from the Federal Government you cannot donate, must be very difficult first of all to detect, let alone enforce. Do you have any comments about that issue?

**Dr THAM:** My preference would be for the United States prohibition, which is a ban on all persons or entities that have any contracts with government departments. It basically bans them from directly or indirectly making any contribution or promising to do so from the time that they commence negotiations for a contract, which would include the tender process, until the contract ends. In terms of enforceability, it can be enforced in any court of law. The key to enforceability is that the people being regulated or being subject to obligation should know they are subject to obligations. Under the US system, once people tender or start commencing negotiations for government contracts it can be quite an easy matter for a government department to notify them that they are hereby prohibited from making any political contributions.

**The Hon. MICHAEL VEITCH:** Dr Tham, what is your definition of a government contractor?

**Dr THAM:** As I said, a person or entity that has a contract with a government department. I suppose we need to do two things to make it more precise. One is that it is not meant to capture persons with employment contracts. The US provision basically says that if the contract is for the provision of materials, supplies or equipment to a department the contract is actually captured by the prohibition.

**The Hon. ROBERT BROWN:** Just to follow up on Mick's question about whom you would regard as contractors, what would be your thoughts on grant recipients, for example, non-government organisations?

**Dr THAM:** I suppose it depends on whether the grant comes with certain conditions that actually form a contract. If the organisation then provides services to the government it would be captured by the prohibition.

**The Hon. AMANDA FAZIO:** In relation to your comment that there should be different caps for trade unions versus corporations, you say your reason for suggesting that is that trade unions are internally more democratic than corporations. Could you elaborate on that, please?

**Dr THAM:** Certainly. I think there are three principles that lead me to distinguish between contributions from trade unions as opposed to contributions from commercial corporations. The first is the idea of political equality as reflected in the principle of one person, one vote. The federal Workplace Relations Act requires that the internal structures of trade unions respect that idea of one person, one vote, whereas with commercial corporations and with the principle of shareholder control the voting power that a shareholder has is clearly calibrated according to how many shares the company or person has in that commercial corporation. To put it quite plainly, basically what you have in commercial corporations, and we all recognise this, basically are plutocratic structures. I think that is the first point of distinction.

The second principle is the principle of transparency, and several points usually follow from that principle. The main thing to appreciate is that unions principally contribute to the Australian Labor Party [ALP] as members, as affiliate organisations. Why this is more transparent is because when a person contributes or joins as a member, their political commitments motivating their contributions are writ large. Unions that join the ALP as members sign up to the policy and the platforms of the ALP. Similarly, their influence is formalised to a greater degree. The example I gave in my submission is that, for instance, the New South Wales ALP constitution sets up the Labor Advisory Council, and that sets out in transparent terms how the unions will exercise influence within the ALP.

The third principle that leads to a distinction is the principle of respecting the diversity of party structures. This comes back to the fact that unions are members of a political party. If for instance we are thinking about a uniform ban on contributions, and let us say we are thinking about a ban or a limit on contributions to \$1,000 that similarly applies to unions and commercial corporations, that will pretty much sever the link between trade unions and the ALP. Because unions are members of the ALP, that breaches the principle of respecting the diversity of party structures. The fact is that some parties, like the Liberal Party, accept only individual members, and that is its right and prerogative to do so, whereas some other parties, like the ALP, are what I describe in my submission as indirect parties. They accept individual members but they also accept membership through collectives or through organisations.

**The Hon. DON HARWIN:** I have some questions related to that as well.

**The Hon. JENNIFER GARDINER:** Dr Tham, presumably trade union affiliation fees would not be classified as donations, so they would not be covered by the amendments that you envisage?

**Dr THAM:** My recommendation is that a limit should be on contributions, regardless of whether they are gifts or donations or otherwise. Unless there is some kind of different provision made for organisations, under my scheme their affiliation fees actually come under the meaning of contributions.

**The Hon. JENNIFER GARDINER:** What about membership fees?

**Dr THAM:** They would also come under my definition of contribution.

**CHAIR:** Dr Tham, you also state in your submission that the shareholders of the corporation or members of the trade union should agree to those donations being made. Is that a practical idea? What impact would this have on the level of political donations?

**Dr THAM:** I think it is a highly practical idea. In terms of trade union organisations, this has been long in existence in the United Kingdom, for instance—so it is clearly a practical idea. In terms

of corporations being required to seek authorisation of shareholders, again this has been part of the United Kingdom's law for a number of years. In response to the first part of the question, I think it is a highly practical idea.

In terms of the impact on the level of funding from commercial corporations and trade unions, I suspect that it would lower the amount of funding from both those sources, whether it be because trade unions are not able to seek sufficient support for spending money on political activity or whether the shareholders are not willing to authorise their board of directors giving money to various parties.

**The Hon. DON HARWIN:** In Australia we had a precedent for the authorisation requirement, did we not, in Western Australia for five years?

**Dr THAM:** That is right, yes.

**The Hon. DON HARWIN:** And I know that some, such as Senator Murray, have continued to advocate it. Do you have any comments on how the authorisation requirement worked in Western Australia during that period? Was that a good way of doing it, or is there a better way, do you think?

**Dr THAM:** I probably have no comment at this stage, Mr Harwin. I actually have not encountered any study as to the effects of that public law authorisation scheme, and I have not actually done sufficient study of that.

**The Hon. DON HARWIN:** Thank you.

**Dr THAM:** But I do think in principle it is a good idea.

**CHAIR:** Before we get on to public funding, are there any other questions?

**The Hon. JENNIFER GARDINER:** With third party campaigning by, say, a business organisation or a trade union organisation, do you see those types of groups being subject to the same provisions in terms of spending limits that would apply to political parties?

**Dr THAM:** Yes. I definitely see them being subject to spending limits and I see them being subject to spending limits that are in fact lower than those actually applying to parties and candidates. Let me explain why I think that is the case. During election time, the key choices to be made by the citizens are as to who will actually govern them and who is to be elected as representatives of a constituency, of a State, or for that matter of the country. It is quite right and quite proper that the focus should be on the parties and candidates. Third parties—or more accurately speaking, non-competitors—of course should have a role to play, but they should not have a role to play to the same extent as those who are actually competing for the support of the citizens. So I see them as being subject to spending limits but, as I mentioned a few moments ago, I probably see them being subject to lower spending limits than those applying to parties and candidates.

**The Hon. JENNIFER GARDINER:** What about in-kind contributions? How should they be limited?

**Dr THAM:** Under any meaningful contributions' limits or spending limits scheme, in-kind contributions must be captured. For example, under the United Kingdom scheme in-kind contributions are clearly captured by the spending limits.

**The Hon. DON HARWIN:** Dr Tham, on that issue of Duverger's party typology, direct and indirect party structures, and the fact that Labor is more of an indirect party structure—and therefore the relationship with the trade union movement means that the funds coming from trade unions is in a different category to corporate funds—I think you concede in your submission that that may well lead to some sort of a funding imbalance. Am I correct in concluding you think therefore that, in terms of the importance that an election finance regime plays in promoting fairness in politics, spending limits are the only way to deal with that issue?

**Dr THAM:** I think they are a very important way. One basically can see, as you sort of implied earlier on—I think it is quite important if, say, there are two main parties or two main blocs competing for the office of government—that there should be some rough parity in terms of competition between the ALP and the Coalition parties. In terms of achieving fairness or some equality of arms between both sides, I think you can think about levelling up and levelling down. The spending limit, as I mentioned a few moments ago, constitutes a ceiling so they level down. That prevents any party that has an excessive amount of financial resources from capitalising on those financial resources. The other way it achieves fairness is to level up, which is basically through ways of public contributions. That ensures that if one of the opposing sides is not able to match in some kind of rough way its competitor, that party will be assisted to a greater extent through public funding than the competitor.

**CHAIR:** Just a final question of the donations issue: What is your position on foreign donations?

**Dr THAM:** I support the banning of foreign contributions on the principle that it should be only Australian citizens and the organisations of which they are members that should be allowed to make contributions to political parties and candidates.

**The Hon. ROBERT BROWN:** You advocate a tapered scheme of public funding with a progressively decreasing payment per vote. What do you see as the advantage of such a scheme?

**Dr THAM:** This links up quite nicely to the statement I made earlier on in terms of levelling up. I think the advantage of the scheme—and let me here focus on, if you like, the smaller parties or let us say the parties other than the Labor Party and the Coalition parties—is the fact that they will always face in the electoral arena a sort of a natural disadvantage compared to the major parties who have more established party structures, greater prominence in the media, and also parliamentary entitlements that actually fund them to quite a significant amount. What this sort of tapered scheme does—if you like we can think about it as akin to a progressive income taxation system—is basically contribute in a rough and ready sort of way to offset the natural disadvantages that small and minor parties face in the electoral and political arena.

**The Hon. ROBERT BROWN:** You recommend that for candidates to be eligible for public funding, they need to receive at least 4 per cent of first preference votes in the lower House, and yet you advocate dropping the upper House threshold of 4 per cent down to 2 per cent. Could you explain your reasoning, please?

**Dr THAM:** The principle underlying the reason is that parties and candidates with meaningful public support should be entitled to public funding. Why I had a different threshold for the upper House as opposed to the lower House is that votes are cast on a statewide basis for the upper House, so the number of votes that you garner for a particular candidate proportion-wise in an upper House election is much more than what would be garnered proportion-wise for a lower House seat.

**The Hon. ROBERT BROWN:** On page 62 your submission in paragraph 3—

**Dr THAM:** I am sorry, would you say that again? I did not catch the reference.

**The Hon. ROBERT BROWN:** I will make sure that I have the right reference.

**The Hon. DON HARWIN:** Yes, page 62.

**The Hon. ROBERT BROWN:** On page 62 in paragraph 3—

**Dr THAM:** Paragraph 3, yes.

**The Hon. ROBERT BROWN:** The paragraph begins "Registered parties eligible for payments". Do you have that?

**Dr THAM:** Yes. I have got that, yes.



**The Hon. ROBERT BROWN:** You make the statement there that registered parties eligible for payments under the central fund are also entitled to annual payments from the political education fund. Were you aware that that is not necessarily the case; that in order to be eligible for education fund funding, parties must stand in the upper House, in the Legislative Council, but the allocation is determined upon its votes in the lower House, so therefore parties which stand in the upper House but not the lower House are not entitled to political education funding? Do you see that as an inequity?

**Dr THAM:** I am sorry, I was not aware that that was the case.

**CHAIR:** It is the way the Electoral Funding Authority has determined to assess the amount of money. It looks at how many votes the party received in the lower House, in the Assembly, to determine the allocation of political education funding.

**Dr THAM:** Yes. Coming back to the principle I mentioned earlier, my view is, as I said, that if a party or a candidate has meaningful public support, they should be entitled to public funding, and this would include payments from the political education fund. To restrict the measure of public support to the votes garnered in the lower House seems to me to be wrong because support can be reflected either through the votes for the upper House or the lower House. One should not make a distinction between one and the other.

**CHAIR:** Dr Tham, you have made a distinction between the upper House and the lower House and you have recommended 2 per cent should be the level for the upper House but the level should remain at 4 per cent for the lower House, yet the whole system of public funding was to encourage Independents and minor parties to be involved in the democratic process. It is a fact that the majority of Independents and minor parties get below 4 per cent, usually around 2 or 3 per cent, unless they can build up their votes over a period of years. Would you consider it fair to make it 2 per cent of first preference votes for both the lower House and the upper House?

**Dr THAM:** At one level I actually think that there should be a nearly completely pro rata system or an extremely low threshold. The rationale given in various places for having a threshold of 2 or 4 per cent is that it basically is a deterrent against candidates who are not serious and so on and so forth. In my view, that role of deterrence should be played by the deposit that is required to be given by the candidate. If the candidate does not receive above a certain number of votes, they forfeit their deposit. Increasingly my view is that there is actually very little justification for a threshold, whether it is 2 per cent or what, and there definitely is much less of a rationale for higher. I am sorry, but in a very long-winded way I am actually arguing against my initial recommendation. I am arguing for, if you like, a completely pro rata system or a very low threshold.

**The Hon. JENNIFER GARDINER:** On the question of broadcasting, I guess the biggest single item of expenditure in election campaigns is television advertising.

**Dr THAM:** Yes.

**The Hon. JENNIFER GARDINER:** Do you believe there should be overall reform of the way we do things in New South Wales and Australia in that regard, and that there should be free time, as it might be called, allocated across registered parties as part of the means to bring down expenditure?

**Dr THAM:** Unfortunately I am still working through my thoughts on that particular issue, so I do not have a definite view right now as to whether there should be a provision of free time to parties or candidates.

**The Hon. DON HARWIN:** One of the requirements you said for eligibility for election funding and in fact registration as a party relates to, as you call it, democratic party constitutions. You recommend that there should be an extension of arrangements as there are in Queensland, that constitutions of parties should have to meet some conditions, and that parties should have to publish their policies on donations. Can you explain how that will strengthen the regulation of electoral and political party funding? Are you aware of any issues that have arisen under those provisions in Queensland, and how they have been dealt with?

**Dr THAM:** I am personally not aware of any particular issues that have arisen in terms of the Queensland provisions. In terms of the principles underlying my recommendation, I suppose the principle that permeates and informs the submission is that the public is entitled to know how money influences politics. They are entitled to know for the purpose of accountability and for the purpose of informed voting. What we have here in terms of registered parties is that they clearly influence politics through the spending of money, and most notably through competitive spending. The public is therefore entitled to know how decisions are made and how that form of money is actually influencing politics. They will not have that minimal knowledge if constitutions are not publicly available and if donations policies of the parties are not publicly available.

**CHAIR:** Dr Tham, you also recommend that annual payments should be made to political parties who are eligible for election funding as well as any party with a membership above a certain threshold, for example 500 members. What are the advantages of this funding scheme?

**Dr THAM:** Firstly it is in recognition of the fact that if there are to be contribution limits, and for that matter, increased transparency of donations from corporations and trade unions, we are very likely to see a drop in private funding of parties.

One of the principles I lay down in my submission is that I think parties must be adequately funded which means that if there is going to be a drop in private funding we need to have the public funding to actually be increased to step in the breach. The reason I included the condition of 500 members is that one of the important functions of political parties is the participation function. I think it is a vehicle for political participation. I think using public money as, if you like, a lever is to encourage parties to include members in my view is a good thing.

**CHAIR:** Do you have any formula for that annual payment? How would that be established?

**Dr THAM:** There are two things to think about with public funding. One is the threshold for eligibility and the other one is the amount. I would have the threshold be the same as I advocated for the election funding payments. In terms of amount, there are two ready ways that we can actually calibrate the amount. One is that have the amount basically calculated according to the number of votes that a party has received in the previous election and also, under my scheme, probably modified according to the number of members that a particular party has.

**CHAIR:** Would the annual payment would not be restricted by a threshold level?

**Dr THAM:** I mean my view is the threshold should be as low as possible.

**The Hon. DON HARWIN:** As low as possible presumably without getting people trying to set up dummy organisations to just get a bit of public money?

**Dr THAM:** That's true. I agree with that.

**The Hon. DON HARWIN:** That is the challenge in striking the balance. Dr Tham would you elaborate on the United Kingdom system in terms of policy development grants which you have also suggested might be available under the party support fund? How does that work there?

**Dr THAM:** Basically what we have in the United Kingdom system, and this was introduced under the 1998 Political Parties Elections and Referendum Act, a certain amount of money is actually available to the parties strictly for the purpose of actually developing policy. The way it works is that a certain amount that you reserve under these particular grants, and parties actually have to apply making a case as to what activities they want funded and if those activities fall under the policy development then they receive the amount of money for those particular fees.

**CHAIR:** In relation to funding, what is your opinion on the current political education fund? Is it achieving its objectives?

**Dr THAM:** I have not seen any particular research as to the effects of the money that is spent under the political education fund. My view is that why we have the political education fund is that the money can, to some extent, be generally used in fact for campaign purposes, even though it is not

campaigning during election time. It seems to me if we are going to be using public money and public funds we should probably try to be using it in a way that actually does not need to reinforce the preoccupation parties have in campaigning. So whether it be through the policy development fund to encourage parties to deliver more time to policy and research, or through the annual payments actually to encourage parties to recruit more members and be rewarded financially for doing so.

**The Hon. MICHAEL VEITCH:** What is your opinion on having the same public funding arrangements for States as there would be for local government?

**Dr THAM:** I make no comment on local government generally. I just have not studied the local government system sufficiently to make any meaningful comment.

**CHAIR:** In relation to disclosure requirements, you recommend quarterly disclosure of donations by political parties increasing to weekly disclosure in election periods. In contrast, the funding authority recommended annual disclosure aligned to the financial year, and others have suggested almost an instant disclosure a donation is made, and it should be reported to the Electoral Funding Authority and that should go straight on the public web site. What are your views?

**Dr THAM:** The first point I make is that I do not believe that annual disclosure obligations provide for timely disclosure. In fact, the Australian Electoral Commission in a 2000 submission basically said the same thing. The Australian Electoral Commission when commenting on the annual disclosure scheme said that "This form of reporting release can result in delays that can discount the relevance of making the information public." I will give you a vivid example, on 23 September 2004 barely a fortnight before the 2004 Federal election, the United Kingdom peer, Lord Michael Ashcroft contributed \$1 million to the Federal Liberal Party. This contribution was made just before the Federal election and, for most people, they would have probably thought that that was actually a relevant piece of information when casting a vote.

The public, in fact, only found out about that contribution more than a year later when on 1 February 2006, when the Australian Electoral Commission released the disclosure returns for the 2004-05 financial year. This example illustrates, if you like, the sort of stark lack of timeliness that actually results from an annual disclosures scheme. There are two other points I would like to make: one is that in the evidence given by the Election Funding Authority it observed that moving from a post-election disclosure scheme to an annual disclosure scheme might, in fact, ease the relationship burden by smoothing the compliance cycle, if you like. I suppose perhaps the same could be said from moving from a post election disclosure scheme to a quarterly return scheme.

**CHAIR:** Do you have a response to my suggestion that some people have recommended instant disclosure donations are made public by the donor and the party to the Electoral Funding Authority which then publicises that on its web site? One could check each day and have a running commentary on donations.

**Dr THAM:** I do not think that is necessary but I do think, as I recommended in my submission, that when the period leading up to election time there should be much more frequent disclosure for the purpose of aiding informed voting. I think I recommended having weekly disclosure obligations in the period leading up to elections.

**The Hon. ROBERT BROWN:** You also recommend that audit certificates be required for all returns by registered political parties and associate entities or, alternatively, for returns with receipts exceeding a certain amount. If the committee were to adopt your recommendation for quarterly returns increasing in the final period of an election, that is, say the last six months of a four-yearly term that would require vastly more audit certificates than what are currently required. Speaking from the point of view of a small party, its audit certificates cost somewhere between \$2,000 and \$4,000. If we went to quarterly audit disclosures, that would be 16 audit certificates over the cycle. How would you address the problem of trying to do audit certificates on a more regular reporting basis, given the cost?

**Dr THAM:** The point you make is an important one. Whatever regulations are enacted I think we should take care to ensure that the burden does not fall disproportionately on those who can ill afford it because if it falls disproportionately on those who can ill afford it then we are basically

setting up another barrier to entry into politics into the electoral arena. The way out, I will probably deal with this in two ways. One is that one could take the cue from the United Kingdom system where the audit requirement only applies when the income of the party actually exceeds a certain threshold. So, in the case of a smaller party where the amount does not exceed the threshold then the audit requirement does not apply. The other way I would think about addressing the requirement, and this is all in the context of the audit requirement applying, is that we could give thought to actually providing in kind public funding to smaller parties who are required to actually conduct an audit. So the Electoral Funding Authority, or it could be the New South Wales Electoral Commission, could organise and have paid through the public purpose the cost of auditors to minor small parties.

**CHAIR:** So you would support the provision here in New South Wales that there be some assistance in the auditing, which has become a major cost factor, as Mr Brown said?

**Dr THAM:** I would support it. This would be a good way to support parties in performing their functions and one of the most important functions of course is for them to actually comply with the law.

**CHAIR:** In regard to disclosure requirements, you recommend including the definition of an associated entity. Could you explain why this is necessary?

**Dr THAM:** I apologise. I did not actually elaborate on that very well in the submission, but basically the recommendations I made are actually a sort of modified version of recommendations made by the Australian Electoral Commission in its Funding Disclosure Report following the 1998 Federal election. Basically, the issues the commission raised were that even though it supported in principle the definition of associated entity under the Commonwealth Electoral Act, it found that it was imprecise in certain respects and that it was possibly hampering its important efforts. Basically, it made those recommendations that I stipulated in my submission that made more precise the definition of associated entities.

**CHAIR:** That would be similar to the other term "third party"?

**Dr THAM:** No. Associated entities are different from third parties. Associated entities in colloquial terms are front organisations.

**CHAIR:** You also recommend a disclosure threshold of \$200 for donations to candidates. This is lower than the current threshold of \$1,500. What are your views on the low threshold?

**Dr THAM:** I do not think that is quite correct. In fact, the thresholds I recommend reflect the current disclosure thresholds. The \$1,500 threshold applies to gifts to parties but in fact the \$200 threshold currently applies to individual candidates and the relevant provisions are section 86 (2) and section 87 (4) and (5) of the Election Funding Act so my recommendations reflect the current thresholds.

**The Hon. MICHAEL VEITCH:** Dr Tham, you just mentioned gifts and in your submission you talk about recommending a separate gift report. Can you advise the committee what you would consider to be a gift?

**Dr THAM:** A gift, for me, would basically follow the definition currently under the Election Funding Act as well as the Commonwealth Electoral Act, that is, something of value that is given for no inadequate consideration.

**CHAIR:** Do you believe that current disclosure requirements for fundraising events are adequate?

**Dr THAM:** Yes, I do. The only qualification I make to that is that the information about fundraising events, as with information about contribution expenditure generally, should be made more accessible, as I explained on page 21 of my submission. It should be made more accessible in terms of being made public on the Internet and so on and so forth.

**CHAIR:** You also recommend that persons making donations on behalf of others be required to disclose the identity or the original contributor and in the case where there is more than one contributor, the actual amounts received. How would such a provision be enforced?

**Dr THAM:** It is important to see that requirement in relation to its twin requirements, if you like, which is an obligation on the registered party, associated entity or candidate, who if that party, entity or candidate reasonably suspects a person is making a contribution on behalf of the other, then there is an obligation to ascertain and verify the identities of the actual contributors, so those two requirements come hand-in-hand and that provides a strong incentive for the parties to ensure that there is no illegal channelling of contributions.

**CHAIR:** So you put the obligation on the party itself?

**Dr THAM:** Yes. There is an obligation on the agent, if you like, on behalf of the person but there is also an obligation on the receiving party or candidate.

**CHAIR:** So you could make it an offence that if someone does contribute on behalf of another person and conceals that, that they are breaking the electoral law?

**Dr THAM:** That is right.

**The Hon. DON HARWIN:** Is there a need to regulate practices such as intraparty transfers between the national office and State party branches? Do you think, for example, that intraparty transfers between State divisions, or from the national office to a State division or branch should be caught up under the contribution limits or should they be regulated in some other way?

**Dr THAM:** I do not think they should be subject to the contribution limits, intraparty transfers themselves, unless intraparty transfers are being used as a channel or a conduit to actually channel money from particular contributors seeking to evade the contribution limits.

**CHAIR:** Well that is the question. How would you find out whether that is in fact what has happened, if one party is collecting money in one State and the State branch transfers then a large amount of money to the other State?

**Dr THAM:** If, for example, the New South Wales ALP receives money from Federal ALP—

**The Hon. DON HARWIN:** Or the Queensland ALP?

**Dr THAM:** —and the trade union is getting money exceeding the contribution limits. The problem only arises when people at the New South Wales ALP end actually know who is contributing money to the Federal ALP, so even if the Federal ALP is actually sending money but the identities of the contributors actually are known, we do have problems in relation to corruption for instance and undue influence, but once the identities of the contributors are known, then they are basically caught up by the requirements I mentioned earlier on in terms of the receiving party needing to ascertain the identity of the original contributor and the contributor being required to disclose to the Federal ALP in this case who the original contributor is.

**The Hon. ROBERT BROWN:** You recommend that the Electoral Funding Authority [EFA] be given investigative powers similar to the Australian Electoral Commission. Currently one organisation is a subset of the other. Could you give us your recommendation as to what level of investigative powers the Australian Electoral Funding Authority should have?

**Dr THAM:** In essence, my recommendations are based on section 316 of the Commonwealth Electoral Act. That particular provision authorises officers of the Australian Electoral Commission to compel the production of information and evidence if he or she reasonably suspects that such information is relevant to determining whether disclosure obligations have been complied with.

**The Hon. ROBERT BROWN:** Just to jump ahead then because it is related, what is your impression of the functionality or current operating resources of the EFA? Would you see that that previous recommendation would require some changes to the structure of the EFA?

**Dr THAM:** I am not an expert on human resources but from what I have read in terms of the evidence given by the EFA, they seem to currently have a three-member authority, that is assisted by a secretary who is part time.

**The Hon. ROBERT BROWN:** Correct.

**Dr THAM:** I think there is only point 3 of a full-time unit and two full-time clerical officers.

**The Hon. ROBERT BROWN:** Correct.

**Dr THAM:** With a level of resources of that kind I would not have thought it would be adequate even with the current disclosure scheme.

**CHAIR:** It seems that there is no investigation unit as such to carry out that particular duty on behalf of the EFA, would that be correct?

**Dr THAM:** I did not hear the last sentence. Could you repeat it?

**CHAIR:** From what you have just said about the staffing, which is correct, there is no investigation unit as part of the EFA to carry out detailed investigations. In fact, as seems as if they feel it should be referred to the police or some other body to conduct those investigations.

**Dr THAM:** Yes. I think that would be fair to say in terms of the evidence given by the EFA.

**CHAIR:** But you believe there should be a unit within the EFA to conduct those investigations?

**Dr THAM:** I certainly think so because in the absence of resources devoted to investigation, what you basically have emerging is a self-regulatory regime.

**CHAIR:** You also recommended what is a fairly strong recommendation, the deregistration of political parties that have significant non-compliance with disclosure obligations. Do you still support that recommendation?

**Dr THAM:** Yes I do. It should of course be a last resort option, but it is an important recommendation because what it signals to the parties that they cannot benefit from registering under the electoral regime and that the benefits they accrue from registering under electoral regime is firstly that they are eligible for public funding, they have free access to the electoral roll and they are able to have their party name actually stipulated on the ballot paper. What it signals to the parties is that they cannot actually receive those benefits without also discharging their obligations under the regime, and most importantly the obligations aimed at transparency in the system.

**CHAIR:** You do not see any dangers where the deregistration could be used for some political advantage by the party in power?

**Dr THAM:** I would not have the power vested in a party official or the government of the day. It should be vested in an independent authority.

**CHAIR:** You agree with evidence from the democratic audit that disclosure schemes by themselves are not enough to prevent corruption and undue influence on the Government. What other are policies should be put in place to achieve that? You obviously disagree with Professor Colin Hughes, who argued against banning or capping donations or capping expenditure due to the problems of increasing such restrictions.

**Dr THAM:** As I argued in the submission, disclosure schemes are a very important part of the regulatory strategy but the problem with relying on them exclusively and solely is that they fail to

achieve what I see as the goals of the political and financial regime. There are two signal limitations of disclosure schemes. Further, as I argued on pages 44 and 45 of my submission, they are inherently limited in their ability to protect the integrity of political representation by preventing corruption.

The second important limitation of disclosure schemes is that they are unable to actually ensure a modicum of fairness in elections. Let me give you an example. According to the EFA's records in terms of election expenditure in the last state election, the ALP outspent the Coalition party to the factor of two point four—it spent more than two point four times what was spent by the Coalition parties. If we consider this unfair, as I do, there is very little that a disclosure regime would do, other than alerting us to the problem. We actually have to turn to other tools and other measures to try to address this issue of unfairness.

**CHAIR:** That would imply a limit on expenditure?

**Dr THAM:** That is right, yes.

**CHAIR:** Which would be difficult to enforce between the major parties?

**Dr THAM:** As I mentioned in my opening statement, the claims made in relation to the unenforceability of spending limits, have actually been overstated. Certain features of spending limits have actually made them easier to be enforced. The main points to be made are that spending limits apply to highly visible activities. When one spends to actually campaign, that act of campaigning is highly public and highly visible. That is a good way to hook upon or make accountable this activity and subject it to the rigours of the law and what you have in terms of highly visible activity is the fact that other parties can actually see another party spending a particular amount, so you also bring the dynamic in terms of the parties, if you like, regulating each other in terms of the spending limits, apart from the essence of the independent authority.

**CHAIR:** Just a general question regarding the EFA: There has been criticism that the EFA has question marks because it comprises two political appointees. This was a view of democratic audit. What is your opinion: that the EFA be abolished and its functions taken over within the Electoral Commission?

**Dr THAM:** I am sorry, I do not actually have a definite opinion on this particular issue.

**CHAIR:** You did recommend that the EFA undertake an annual review of the funding disclosure scheme and report to Parliament whether the scheme ensures adequate transparency. Why would this be beneficial and who is responsible for this role at present?

**Dr THAM:** Currently section 107 of the Election Funding Act requires the EFA to provide annual reports to Parliament, but it does not expressly require it to actually review the effectiveness of the disclosure regime under that particular Act and the advantage of making that explicit or requiring annual review of the effectiveness of disclosure obligations is that it is a good way to actually ensure that Parliament is readily informed as to whether the disclosure scheme is achieving its purpose.

**CHAIR:** The democratic party constitution recommends strengthening the constitution of political parties and requiring the publication of their policies on donations. Could you explain how that would strengthen the regulation of electoral and political party funding?

**Dr THAM:** Yes. As I explained a few moments ago, the principle underlying that is that the public is entitled to know how money influences politics, so parties clearly influence politics through their campaign spending and they gain that money through particular means from particular sources. Some of the information is available, of course, through the disclosure schemes, whether it be the Commonwealth disclosure scheme or State disclosure scheme. This particular recommendation is also directed toward the same purpose, sort of giving the public meaningful information as to where the parties actually received the money.

**CHAIR:** What are your central recommendations for reforming the system of electoral and political party funding? In other words, what would you like to see emerge from this inquiry as a priority?

**Dr THAM:** I think, as mentioned in my opening statement, if I had to nominate two key areas of priority they would be measures strengthening transparency and, secondly, campaign spending limits on parties, candidates and third parties. The other thing I would hope to see from the inquiry is that I note that on Friday Senator John Faulkner, the Federal Special Minister of State, announced a process of electoral reform and one of the things that he mentioned in a media release was that the Federal Government is going to be tabling a green paper on political finance reform involving various States and he has asked the various States and Territories to nominate a Minister to work with the Federal Government.

One other thing I would like to perhaps see from this parliamentary committee is that I think it is absolutely crucial that there be parliamentary involvement in any reform process and that any reform process should not be dominated or too heavily influenced merely by Ministers of particular States and Territories. I think a principle of parliamentary government is that it is Parliament that actually has the principal role of reviewing and making laws, and one important recommendation that the committee can make is that whichever Minister is actually nominated by the New South Wales Government, that Minister should be in regular and intensive consultation with this committee.

**CHAIR:** You are suggesting that there may be some favouritism in the way in which the recommendations are drafted, if they are drafted by the political power or party in government?

**Dr THAM:** No, no, I am not suggesting that. What I am basically saying is that the responsibility for law-making and law review should rest with Parliament and not solely or largely with the executive.

**The Hon. JENNIFER GARDINER:** I think the Premier of New South Wales has already indicated in the Parliament that the reform package would be through the Parliament in time for the New South Wales Local Government elections, which are in September. I am wondering about the timetable with respect to Senator Faulkner's overall review in conjunction with the States. Maybe the September deadline for New South Wales is not realistic—I don't know. What do you think?

**Dr THAM:** Sorry, I was not aware of this fact. Is this a package dealing solely with Local Government?

**The Hon. JENNIFER GARDINER:** It may well be that the Premier would have to extract the Local Government provisions—whatever they may be—from an overall package, I do not know. Maybe that is the way it might be done, but that is what he has said so far.

**Dr THAM:** Yes. I do not have any strong views on that. In Senator Faulkner's media release I think he mentions tabling the green paper in July this year, so it probably does not fit that well with the timetable set down by Premier Iemma.

**CHAIR:** Thank you, Dr Tham. We appreciate you cooperating with our inquiry and letting us use technology to be able to have you as our witness. We were very anxious that you did have the opportunity to give evidence to our inquiry and we thank you for facilitating that.

**Dr THAM:** Thank you very much. It has been a privilege to appear before the committee.

**(Examination via teleconference concluded)**

**(Short adjournment)**



**SIMON ALLEN LONGSTAFF**, Executive Director, St James Ethics Centre, sworn and examined via teleconference:

**CHAIR:** Do you have an opening statement?

**Dr LONGSTAFF:** No.

**CHAIR:** We will proceed to questions. As you know, Dr Longstaff, there is substantial community concern that political donations, for example from property developers, result in unequal access to Government and undue influence on Government policy. Could you outline some of the ethical concerns that you have noticed in the community debate on this issue, and also from your organisation's point of view?

**Dr LONGSTAFF:** I would agree that there is substantial community concern about this matter and the concerns, I think, are well founded in that there is a general belief that in the case of democracy there ought to be reasonable access by all on an equal basis to those who exercise proper power for the public good and there is a perception that those people who have vested interests, whether they be commercial or otherwise, are being able to secure an unfair advantage in pressing their case simply because of the amount of money they have at their disposal whereas other people are denied similar opportunities. But this is all an unintended but nonetheless real consequence of the way in which political donations have been allowed to develop in a particular character over particularly recent years.

**CHAIR:** Do you see it more as a perception in the public's mind or a reality? Have you conducted any surveys or investigations on the possible influence on government policy through donations?

**Dr LONGSTAFF:** No, we have not conducted any kind of detailed research into this. I think the perception is a real one; it is something that one picks up just through the ordinary media and conversations, without doing any research. As to the reality, I think it is pretty clear, just from public reports, that there are certain companies and individuals who are able to secure access to people, particularly within the executive, because of the contacts they have formed through their political patronage or their financial patronage of political parties, and I think that that is what the community is seeing.

Whether or not the contact that people have does give rise to actual influence is another thing, and it is very hard to tell that except for the sorts of inquiries that are subsequently published by people like the ICAC.

**CHAIR:** You would be aware the Premier has been making various announcements and recently he announced that he supports a ban on all private donations in favour of a system of public funding. In your opinion is using public funds for elections an appropriate use of taxpayers' dollars? Is it appropriate to have the taxpayers bear the full cost of election campaigns?

**Dr LONGSTAFF:** I do think that it is appropriate that taxpayer funds be used to fund elections. I see elections as being obviously core to the quality of the democracy that we are able to enjoy in the State of New South Wales, and for the taxpayers as a whole to help facilitate a proper degree of quality in that democracy I think is an appropriate thing to do. That said, I think there are measures that can be taken which do not put the burden entirely upon taxpayers as a class. I think that there could be mechanisms by which private individuals, even though they may also be taxpayers, could make additional contributions to the democratic process but not by making donations directly to political parties. Instead, there could be, as there is at the moment, an independent agency which is responsible for the distribution of funds for electoral purposes to whom citizens could make donations if they wanted to support the democratic process in New South Wales, and in doing so any donation they would make would, to some degree, lessen the burden borne by taxpayers.

**The Hon. ROBERT BROWN:** Just a supplementary question on that. Do you believe that whatever measures are taken they should be taken across all levels of government, that is Commonwealth, State and local?

**Dr LONGSTAFF:** I think ideally they should be but I would not let the absence of movement in other levels of government prevent action being taken within New South Wales State politics.

**The Hon. ROBERT BROWN:** In relation to your support of public funding, the last Federal election I think cost around \$40 million or \$50 million, if reports are to be believed from all the political parties; State government elections probably cost tens of millions of dollars and, of course, in New South Wales we have local government elections every four years, and given the number of local government elections the cost could be quite substantial. Given that sort of dollar expenditure, do you still say that full public funding would be a good thing or perhaps do you see that that public funding could be restrained by, say for example, limits on campaign spending?

**Dr LONGSTAFF:** I do believe there should be limits on campaign spending but I think that public funding of elections across the full spectrum might be brought forward as a possibility if there be a coordination amongst the electoral cycle that occurs within Australia in State, local and Federal government, much as there is within the United States of America where a series of elections are all held on the same day. This I know would involve some constitutional change, I suppose, to be able to bring everything into alignment, but if it were done it would certainly increase the efficiency of public funds used to fund elections and therefore reduce the overall burden for the process as borne by the community.

**CHAIR:** Just following up Mr Brown's question, obviously the amount of money being spent on election campaigns includes a very big proportion on television advertising, so it would not be very difficult to have a campaign expenditure limit that reduced that amount of advertising dramatically so the taxpayer is not paying that money which really goes towards a television station owner's—

**Dr LONGSTAFF:** That is one of the things, and I think there are good grounds for having a limit put on the amount that is spent. But also I think some of the costs that are borne by political parties and by others contending for office could be constrained, particularly in an area like television. I know that stations and the owners of television rights will throw up their hands in horror at this suggestion, but each of those people is able to generate the income they enjoy through the use of a public licence which is provided to them under certain conditions, and one of the conditions that might be attached to the provision of a licence to broadcast in Australia may include a requirement that a certain amount of time be made available—if not free certainly at reasonable costs—so that those licence holders were contributing something of their time or even an opportunity cost towards the support of democracy in Australia.

That is one sort of thing that might be done to try and make sure that you balance the need to ensure that there is effective communication with the public alongside a proven control of costs borne by political parties and others contending for office.

**CHAIR:** We have had some claims by developer groups to defend themselves because of all the criticism they are getting that when they make political donations it is an act of corporate responsibility as a means for the corporate sector to support Australia's civic institutions. What is your response?

**Dr LONGSTAFF:** My response is that it may be true that they are wanting to act as responsible corporate citizens and make contributions in support of the democratic process, but there are better ways for them to do that than to make direct donations to political parties. As I mentioned before in a previous answer, one option is for there to be an opportunity for individuals, including developers and others, to make donations to the political process by making a contribution to a fund that is administered by an independent body like the Electoral Commission or the Election Funding Authority, which I would seek some amendment to the way those appointments are made, but just taking that as the idea.

In that way you could put to the test the claim that a developer would make that they want to engage in an act of corporate responsibility by providing them an opportunity to do that, to have some acknowledgement, if you like, that they contribute, as other people do, to the democratic process but

without some of the mischief that can be attached to the direct donations they might make otherwise to political parties.

**CHAIR:** You just made a brief reference to the appointments to the Election Funding Authority. Could you just elaborate on that?

**Dr LONGSTAFF:** I notice that the appointment of the Electoral Commissioner and two other people are appointed by the government, one on the recommendation of the Premier and the other on the recommendation of the Leader of the Opposition. I think I would prefer to see a situation in which all three people were independent and not based on recommendations made by either the Premier or the Leader of the Opposition, simply because they may have an interest in promoting the interests of political parties, and having the majority numbers that would allow them to make decisions which would otherwise not be made if you had three entirely disinterested people performing the functions that the Election Funding Authority does at present and might do in the future.

**The Hon. MICHAEL VEITCH:** Could I go back to your comments about the television advertising? How would you propose for that to be administered—by electorates or across the whole State?

**Dr LONGSTAFF:** I probably have not given sufficient thought to the actual administrative detail. Are you talking about how would the allocations be made?

**The Hon. MICHAEL VEITCH:** We have had a number of comments about the public funding and also capping. I guess I am trying to work through in my mind how the caps would be applied. Is it across the whole State per political party or by particular electorates?

**Dr LONGSTAFF:** I think what you might seek to do is to have a mixture of two things: there may be a cap applied on a statewide basis, which then allows some discretion to be exercised by political parties in terms of the way those funds have been allocated between the electorates so as to seek whatever campaigning strategy they have. But I would also then introduce within that mix a cap within any particular electorate so that you could not, for example, have all of the allocation that was made for a State—not that anybody would do this, but in principle you would not want to have a situation where all of the allocation for a State was poured just into one or two electorates because they were highly prospective, if you like, as marginal seats.

So I would look both to cap the overall amount within the State and have a cap per electorate but thereby allowing some discretion for political parties in terms of how they allocate the funds available to them within the State, albeit knowing that there is a cap for any particular electorate.

**CHAIR:** So you would not ban donations 100 per cent, you favour capping campaign donations?

**Dr LONGSTAFF:** I would favour capping but I would ban the making of donations directly. This is a vexed question there. I have actually got a slightly divided mind about the whole question of whether or not any kind of donation can be made directly to a political party as opposed to donations to this independent third party that I have in mind. The making of small donations by individuals seems to me to be consistent with the notion that people ought to be able to be free to express their political convictions in support of a political party and that we would expect it to be entirely proper for an individual if they want, for example, to give freely of their time and energy in support of a particular political party and its ideology.

So I think, consistent with that, the making of small donations by individuals to political parties would be appropriate, providing of course that they are all properly declared and disclosed. But when it comes to any larger amount, it should be going through to an independent body like the Election Funding Authority for subsequent disbursement as part of a general pool of public funds that carried the lion's share of benefit for political parties and other campaigning organisations.

So yes, small personal donations—and when you ask me what would small be, I am not quite sure what the amount would be, but something which could be considered more of a token

contribution rather than a large amount of money; certainly something a lot less than \$100—and then larger ones, as I say, through that independent third party.

**CHAIR:** Just in a practical sense, obviously people do give donations to political parties out of loyalty and support for that party. Is it true that in a practical sense there would be the same enthusiasm to give money to the Election Funding Authority?

**Dr LONGSTAFF:** In fact, there probably would be quite considerable enthusiasm from people who really care about the quality of democracy: they want to see fair contests between candidates, and the fact that they can support democracy rather than any political party I think would be something that large numbers of people would want to do. At the same time I would not entirely rule out small personal donations—that is, by individual natural persons—being made to political parties, which, as I say, is consistent with the desire amongst some in the community to lend practical support to political parties which articulate a case for the kind of good life that they believe ought to be provided in politics.

So I think you could have the best of both worlds in some senses. There would be those individuals who might want to make a small personal donation to a political party, which, as I say, would be declared and disclosed, and then you would have other people who would want to make small donations or large donations above a certain amount to the democratic process itself, knowing that a disinterested party would be distributing those funds fairly to those contending for office.

**CHAIR:** Have you had any feedback from individuals or corporations that they would support your concept of giving donations straight to the Election Funding Authority?

**Dr LONGSTAFF:** I have not, Chairman. I have not sought those views. My feeling is that a number of them would prefer that. I think it would begin to answer for them some of the problems they encounter in terms of trying to find a way to balance their perceived allegiances amongst the different parties and concerns that they do express that if they are not supporting one or the other there may be adverse consequences for them. In these circumstances, it removes that difficulty for them and yet still allows them to be participating in the democratic process.

**CHAIR:** As you know, there has been a great deal of controversy about developer donations and large fundraising dinners for developers and heads of corporations and whether they are designed to seek political favour by their attendance or donations. What are your views on events such as fundraising dinners?

**Dr LONGSTAFF:** Mr Chairman, I think they are very problematic. Like others, we have heard stories of people being able to pay \$5,000 or \$10,000 or whatever to be able to sit at the same table as a Premier or a Minister. One has to assume in the case of any business that if they are extending those sorts of funds, they are doing so on the assumption it will deliver some kind of benefit to the business. That is unfortunately a consequence of the fact that businesses are required pretty much to expend all of their funds in order to pursue their own particular interests. So I have come to the view that Ministers certainly should not attend any function that raises funds for their party or their electorate where the cost of attendance by any person is anything other than a nominal amount. So Ministers attending a barbecue in their electorates or something like that would be fine, but if they attend something where people are paying hundreds of thousands of dollars to attend it is problematic. I am not quite sure whether or not such a restriction should apply beyond those who are Ministers. I think they are a clear case because when they attend they do so in part as members of the Executive in which they have a public office. That whole question has to be looked at as to how far you extend restrictions simply to ensure that there is no perception or reality of people buying opportunity or influence simply because they have the means to do so.

**The Hon. AMANDA FAZIO:** Dr Longstaff, would you extend that to shadow Ministers as well?

**Dr LONGSTAFF:** I am not quite sure. I want to think about that a little bit more. Part of the reason why it is so easy to direct this kind of restriction to Ministers is because of their public office as members of the Executive. Shadow Ministers probably yes, largely because they always stand ready, I

suppose, if the opportunity arises for them to take on such a role. On balance I would say yes to shadow Ministers as well.

**The Hon. DON HARWIN:** Dr Longstaff, obviously there is great ethical debate about issues relating to incumbency—for example, the use of government advertising in close proximity to an election campaign to sell messages that might be perceived to be to the electoral advantage of the Government of the day. There are also concerns that the use of members' entitlements may be either a direct or indirect benefit in election campaigning. Do you have any thoughts on that issue?

**Dr LONGSTAFF:** There are two types of incumbency—the incumbency enjoyed by governments and the incumbency enjoyed by sitting members against candidates who would like to displace them in Parliament. As to the first—I am not quite sure of the extent to which there are already clear requirements in relation to this—I think that governments should not be using public funds for political purposes. I think it is pretty well established that that ought not be done. Of course, the problem arises when governments say they are advertising purely in order to provide information to the public about government policies or programs. The closer those sorts of expenditures lie to an election, the more likely they are to provide a perception, at least in the community, that the incumbency of Government is being used for political purposes for which it is not intended. So in those circumstances there are a couple of options. One is to provide, if you like, a blackout point within a certain period before an election where government advertising, other than that which is deemed to be critical—for example, in relation to bushfires and things of that kind—could be prohibited. Alternatively you can have some reasonably strict guidelines in terms of what is able to be determined in these matters, which are put into the hands of someone like the Auditor-General who is able then to call a halt if he believes that the guidelines have been breached by a Government that has not quite understood how the intention of the guidelines ought to be applied. In a sense, my general position is that governments should not use incumbency as they might be tempted to in order to secure a political advantage, which is in a sense a private advantage using public funds.

On the issue of incumbency of those who sit in Parliament, it is extremely difficult to prevent members of Parliament from going about their business relating to their electorates, even if on occasion that means they are using their office in order to find what is, I suppose, an electoral advantage or political advantage. It is not impossible to distinguish, and to the extent that it ever becomes clear that a person is using public funds beyond those provided by an independent electoral funding body to advance their political interests then that will not be allowed. But making the distinction between doing things that one does as part of getting about your electorate and meeting the community, which is what you are obliged to do as a member of Parliament, and those things that are just blatant political campaigning, it is very hard to make that distinction.

**The Hon. ROBERT BROWN:** Dr Longstaff, as part of the general current public funding of political parties and general political education, the Political Education Fund aims to achieve a more politically informed electorate. I gather from your advocacy that you suggest that perhaps educating the electorate could be better served by a body such as the State Electoral Commission using public and private funds. With the current Political Education Fund, the funds are provided to registered parties who stand candidates in the lower House and who also are successful in having a candidate elected in the upper House. However, the distribution of those funds is made solely on the basis of the vote achieved in the lower House, which disadvantages certain of the smaller parties who only stand in the upper House. I ask you for two comments. Firstly, do you see an inequity in the current system? Secondly, would you advocate replacing that fund entirely with the sort of thing you were talking about before where a body such as the State Electoral Commission takes care of the public education process?

**Dr LONGSTAFF:** Mr Brown, if the intention of the Political Education Fund is to do something, which I think is quite proper, which is to increase the general literacy of the citizens of New South Wales in terms of their understanding of the institutions of Parliament, the electoral process and all the rest, if that is the purpose then, yes, I think that should be done by a disinterested, independent body that is able to work with a group like the Board of Studies and create curricula material and use other mechanisms more suited to our modern times to try to bring about those desirable things. If, on the other hand, the intention of the Political Education Fund is to allow political parties to articulate their particular philosophical or ideological positions and to inform the public so that they have a better understanding, short of campaigning on particular matters, then such

funds should be made available to all political parties that enjoy some reasonable degree of support in New South Wales, irrespective of whether or not they garner that support in the Legislative Assembly or Legislative Council elections. As to which of those two options is better performed using public funds, I would think the former, namely, to increase the general degree of literacy of the citizens of New South Wales in relation to Parliament and associated institutions in the electoral cycle. That would be a better way to spend the money. As such, I would favour there be reforms so that those funds are disbursed by the disinterested, independent body that I would advocate be established.

**The Hon. JENNIFER GARDINER:** Dr Longstaff, one of the issues that have been raised in the current discussion is a matter of loans to candidates and the possibility of real or perceived conflict of interest. For example, there has been an instance of a parliamentary secretary who had a loan from a developer in Wollongong and the parliamentary secretary later made representations to the Planning Minister on a development that the developer was involved in. What is your response to that type of incident? What do you think the committee might recommend to deal with such matters? Should the New South Wales Ministerial Code of Conduct in relation to potential or real conflicts of interest also apply to parliamentary secretaries?

**Dr LONGSTAFF:** Taking the third point first, the element of precaution, yes, it should apply to parliamentary secretaries. Anyone who is capable of exercising influence or making some kind of Executive decision that lies in the hands of Ministers should be required to declare an interest which might colour their judgement in relation to such matters, and typically where those interests have been declared they should withdraw from the decision-making process. A loan to a person actually creates a reciprocal obligation to the person, particularly if a loan is made under conditions that are unusually favourable—that is, it is not at arm's length or not done at purely commercial rates, and where the loan comes from a particular individual rather than, say, from an institutional lender like a bank. So it is extraordinary in the normal sense of the word. I think those loans ought to be considered as giving rise to potential conflicts and ought to be disclosed. In all cases it should mean that the person who has the conflict should withdraw from the process of exercising any kind of influence or decision-making in relation to the matters that arise in relation to the person who has made that loan, other than, as I say, it is a normal loan at arm's lengths and under commercial terms by somebody who is generally regarded to be an institutional lender.

**CHAIR:** Dr Longstaff, it sounds as though you would prefer a ban on those types of personal loans.

**Dr LONGSTAFF:** Chairman, for anybody who is exercising public power on trust, those within government. I do accept there is a distinction between being a parliamentarian in a party that forms Government and being in the Government itself. The Executive must be understood to be distinct from the Parliament. But if you are in a situation where you are part of the Executive, then you will have a high obligation to ensure that you exercise that public power without any sense that you are doing so for private profit either for yourself or another person. As such, given the unusual nature of some of these loans and the preferential terms under which they can be provided, they create an obligation and therefore an interest that is incompatible with the discharge of public office in the way I outlined.

**CHAIR:** Particularly if there is a secret agreement that the loan does not have to be repaid.

**Dr LONGSTAFF:** Things like that, Chairman, merely exacerbate what is a fundamental problem on its own terms.

**The Hon. AMANDA FAZIO:** Dr Longstaff, I want to ask you some follow-up questions. The incident that the Hon. Jennifer Gardiner refers to related to renovations that had been done on the home of the parliamentary secretary and the cost of the renovations had not been paid to the developer at the time the member was required to lodge a pecuniary interest statement. The way in which we lodge our pecuniary interest statements has been changed so that we do them every six months, but we still have a regime where the reporting of donations in general to political parties is done at different levels—twelve monthly at the Federal level and every four years at the State level.

There has been a call by the Premier for those sorts of disclosures to be made on a six-monthly basis and I understand the Federal Special Minister of State has echoed that recently. Would

you support more regular reporting of donations so that people can understand the financial relationships between members and people who might extend services or loans to them and to parties generally?

**Dr LONGSTAFF:** Yes, I would support that but I would also advocate some consideration being given to what in the private sector would be known as a regime of continuous disclosure where any material event would be disclosed even if it fell within the period of six-monthly reporting. For example, if you hold some kind of public office and you have an obligation of the kind we have been talking about which has not yet been crystallised, I think it is incumbent on the individual at the earliest opportunity to disclose such a thing even if it means making an irregular entry into the list of pecuniary interests, which would otherwise be updated routinely on a six-monthly basis.

**The Hon. AMANDA FAZIO:** My other question relates to third party donations to political parties. There are some organisations that exist solely for the purpose of raising and channelling funds into political parties. How do you think we should be dealing with the individual donations that go into those third party organisations? As it stands, a political party need only declare a donation of, say, half a million dollars from a third party entity, but there is no disclosure; there is no way for the public to know who put that extra money into the third party. How should we be looking at dealing with that?

**Dr LONGSTAFF:** At the risk of putting a cat amongst some pigeons I would suggest that donations of the kind that you described from third parties themselves must also go into the public fund and not be made directly to political parties. Where third parties are raising funds for political parties they would at least have the assurance that they would be fairly distributed through the decision making of this disinterested body. I understand that it may lessen their capacity to raise funds and instead require individual members making those donations to do so within the parameters I described earlier—namely that small personal donations be made directly to political parties and therefore be properly accounted for and disclosed. That would not disadvantage any political party provided it could rely upon the goodwill and voluntary contribution of the individual members who currently make donations to those third parties. If on the other hand the third parties were able to raise funds from people directly, they would know that those funds would be put into the public funding body.

**The Hon. AMANDA FAZIO:** We have had a lot of discussion with other witnesses in relation to donations from persons or corporations based overseas and there is a trend towards saying that they should be banned. Would you prefer to see them banned or directed to this new public funding entity that you have been talking about?

**Dr LONGSTAFF:** I think that provided the funds go to the new public funding body, which would be able to make disinterested judgements about how to allocate them in support of the democratic process, there probably is not any problem with bodies based overseas making such a contribution if they wish to support democracy in Australia. The mischief only arises if they are making donations directly to political parties or to candidates, in which case the same risk arises of being able to secure influence based on the money you have at your disposal whether it is from a person overseas or at home.

**The Hon. ROBERT BROWN:** In relation to your concept of a variously funded public entity that can take care of the education process, has your organisation done any studies or alternatively, if you have done the studies, do you have an anecdotal view on the level of education or knowledge of the voting public in New South Wales about the electoral system? Would you say it is good, bad or otherwise?

**Dr LONGSTAFF:** The last time I looked, and it was not through a formal study, it was only moderate to bad. I have spoken to people who simply have no idea what the Legislative Council or House of Assembly is. They do not know what the Senate is. I think there is quite a long way to go in Australia in creating a kind of civic literacy around the key institutions of democracy and the operation of our Constitution. I know the curriculum is crowded but large numbers of people are in an unhealthy state of ignorance in relation to how our democracy operates. Even simple distinctions such as what constitutes a representative democracy as opposed to participatory democracy and the role of

delegates as opposed to representatives, which are critical to the way our democracy operates, are simply not understood by large numbers of our fellow citizens.

**The Hon. ROBERT BROWN:** I noticed in two of your answers you have used words like "boards of studies". Do you think that this concept of yours is urgent? Do you think it should be introduced as a result of the findings of this committee or do you believe that the knowledge level needs to be increased through the schooling system over a long period of time?

**Dr LONGSTAFF:** I certainly think that the schooling system is critical to improving and maintaining a proper standard of understanding about the way our democracy works. There is probably some degree of urgency in the fact that there are large gaps in the community that need to be filled. We have to contend with the fact that there may also be large segments of the population that simply do not care to know, for whom all of this would seem to be irrelevant. You and I can say it is important but if people in the electorate do not believe that to be so then it may be difficult to achieve the level of literacy that I think ought to be achieved in a vibrant, mature democracy like ours. Perhaps apart from the longer-term things some short-term measures to raise awareness could be provided for as a result of the deliberations of this committee. As I say, over the longer term it has to be part of the general curriculum. There are courses in civics and things like that; it is just that it seems, from what I can see, not to be resonating particularly well with large parts of the population.

**CHAIR:** You have indicated that you feel that the level of knowledge in the community is very low. Have you any comment about the fact that the Electoral Commission is supposed to conduct an education campaign prior to elections to explain what is happening and the preferential system and so on? Do you think that has been adequate in the past?

**Dr LONGSTAFF:** I think the Electoral Commission does a pretty good job, but it is explaining technical aspects of the voting system in New South Wales. Their brief does not extend to providing for people a better understanding about the institutions that we have and the role they play in our Constitution. That is where I think there is probably a general lack of understanding, which is well before you get to the technicalities of how the voting system itself operates.

**CHAIR:** What are the central recommendations for reforming the system of electoral and political party funding that you would like to see emerge from this inquiry? What do you think should be some of our priority recommendations?

**Dr LONGSTAFF:** Chairman, I would be looking to ensure there is a reformed, independent and disinterested body like the Election Funding Authority that is capable of receiving funds not just from the Treasury but also from individuals and third parties who want to support the process of democracy in New South Wales, and that those funds be eligible for distribution both for funding campaigns and for essential elements of political education. Secondly, that there be a cap on funding for campaigns both on a state-wide and an electorate-wide basis, allowing a proper degree of discretion for political parties and others campaigning to allocate funds across the electorates but knowing that the cap applies in any one electorate so that it cannot be used in one place. Thirdly, I would be looking to see individuals being able to make small contributions to political parties and that those contributions be declared and disclosed, but any fund other than what is taken to be a nominal contribution in support of a particular political party should be directed towards the disinterested independent body that I mentioned a moment ago. Those rules should apply equally to third parties, such as corporations and unions, so that if they want to make significant donations it should be done to the disinterested body, although those third parties' members, if they wanted to, should be able to take advantage of the opportunity to voluntarily make small donations directly to the political parties if they are minded to do so. Some exploration ought to be entered into as to how the costs of campaigning, particularly using the Internet, television and others, bear upon those things, with a view to exploring whether or not the licences to operate that are formally provided to broadcasters ought to have attached to them some obligations to make available a certain amount of time during the election cycle in order to facilitate the democratic processes.

Consideration should be given to whether or not the cost of public funding might also be ameliorated by some kind of coordination of the electoral cycle across the different levels of government, and what the implications for that would be. Members of the Executive should not attend functions to raise funds for political parties where the cost of attending by any person is other than a



nominal charge. Taking up another point that arose from a question that was put to me, the conditions under which conflicts of interest are dealt with in New South Wales should be adjusted to take account of things like loans and other material benefits that are enjoyed either by ministers or parliamentary secretaries who form part of the government. I hope I have captured the key points in those remarks but I hope you will pick up anything I have not held in mind as you go forward.

**CHAIR:** You have made it very clear that the current Election Funding Authority would have to be completely reorganised to be independent in the way you want it to be.

**Dr LONGSTAFF:** Indeed, Chairman. I believe that would be prudent.

**The Hon. MICHAEL VEITCH:** Would you envisage all those recommendations being applied to local government consistent with the State?

**Dr LONGSTAFF:** Yes. I think we have some real challenges in our State in relation to local government.

**CHAIR:** Thank you very much for appearing before our committee via technology. We appreciate your cooperating with us from the Qantas lounge.

**Dr LONGSTAFF:** Apologies, Chairman, that I was not there personally, but it may have been to your benefit that I am on the phone!

**CHAIR:** Thank you very much for helping our inquiry.

**(Short adjournment)**

**CHAIR:** Welcome to the third hearing of the inquiry by the Select Committee on Electoral and Political Party Funding in New South Wales. As you may be aware, today's hearing got under way two hours ago with the committee hearing evidence by teleconference from two witnesses who were unable to attend in person. Before we begin the next portion of our hearing, I will make some comments about procedural matters.

In accordance with the Legislative Council *Guidelines for the Broadcast of Proceedings*, committee members and witnesses may be filmed or recorded, but people in the Public Gallery should not be the primary focus of any filming or photographs. In recording the proceedings of this committee, you must take responsibility for what you publish or for the interpretation you place on anything that is said before the committee. The guidelines for the broadcast of proceedings are available from the committee clerks.

Committee hearings are not intended to provide a forum for people to make adverse reflections about specific individuals or organisations. The protection afforded committee witnesses under parliamentary privilege should not be abused during these hearings. I therefore request that witnesses avoid the mention of individuals unless it is essential to address the terms of reference. Any messages from attendees in the public area should be delivered through the committee clerks. I remind everyone to please turn off their mobile phones. I now welcome our first witness, Mrs Dawn Fardell, the Independent member for Dubbo.

**DAWN ELIZABETH FARDELL, MP**, P. O. Box 968, Dubbo, 2830, before the committee:

**CHAIR:** Mrs Fardell, you do not need to be sworn, as you know, because you have already taken an oath of office as a member of Parliament. Do you wish to make an opening statement?

**Mrs DAWN FARDELL:** No, only to thank you for the opportunity to appear here today. You have read my submission. I am open to any questions you may wish to ask.

**CHAIR:** Good. We thank you very much for being willing to appear before the committee. We thought it was good to hear from not just the major parties who will be giving evidence but also from Independents who may have a different perspective on some of the issues from that of the major parties. Many inquiry participants have claimed that political donations, for example from property developers, result in unequal access to government and undue influence on government policy. What is your response to these claims?

**Mrs DAWN FARDELL:** I believe there is a fine line. I have not witnessed that myself, in individuals that I am aware of, where that has occurred. It is very easy: In my own case, for example, I was thinking the other day in preparation for coming to this inquiry that I have very good friends, and I see them as friends, who, for the last two elections, have given me small amounts of \$400. But that was just because we have been friends for a long, long time. But then it came to me that they develop things around the area of Dubbo. Is that classed as a contribution from a friend? Although the amount is small, they also hand out how-to-vote cards for me. Does that contribution come into another category? Do we look at the amount, or the reasons for those donations?

I think it is a very fine line. I would not like to judge others on that because I know that that money was given to me in very good faith and just as a little thankyou, I guess, to get me over the line, but no more than that. There has never been an approach by that husband and wife to do anything for them at all.

**CHAIR:** What you have just told us is a good example of how difficult it is to perhaps have a rigid policy of simply banning developer donations. You would have to have a policy of virtually banning all political donations. What are your views on that?

**Mrs DAWN FARDELL:** I believe that that is the line you have to take, otherwise it would be too hard to call which is honest or would appear not to be in the perception of those in the coffee shops or the hotels or wherever you may be. As a politician you always have to try to be above that perception. Yes, you would have to probably either let the current system stay as it is and the Electoral

Commission perhaps having finer auditing than what takes place at the moment, I believe, or ban it completely for all.

**CHAIR:** The Premier of New South Wales made an announcement that he will work with the Electoral Funding Authority to increase what he calls the transparency of Independent candidates' campaigns at State and local government level. Are you aware of that statement? What is your response to that?

**Mrs DAWN FARDELL:** I am aware of that statement. The Independents that I am aware of are very transparent. My own campaign compilation sheet of my returns is right down to the last cent. There is nothing hidden. Everything is there. There is nothing in-kind that has been hidden at all. It is all out there for the public to see, and I can honestly say with my hand on the *Bible* that that is exactly the full amount of my campaign, and that is what is quoted. I do not know how much more transparent I personally could have been. I cannot speak for others because Independents are not a party and we do not get together and discuss this. But certainly in my own case I would believe that, yes, I am very transparent.

However, if we are looking at political parties—and I mean no offence to members of political parties here today—there are times I am aware of, if we are looking at comparing campaigns, where I have known my own campaign has come in at a lot less, at least half the cost of the leading opponent against me. I mean no reflection on those individuals: I believe they are decent people. But where the party system may have picked that up from their own donation and coffers in the head office—and a lot of printing and advertising and so forth has been picked up by the party—that does not appear on the individual's campaign funding expenses. That has been a great concern to me. I have no slur against the individual's character and no slur on the amounts that the campaign may have cost, but for the public to have a true picture, the full details of the individual candidate's campaign, anybody who belongs to a party, should also be listed. If the party has picked up so much in advertising, that should be shown for them. What it does reflect to me are two things: things are hidden quietly and the law allows that to happen, and do political parties get a cut rate for their media advertising in campaigns, for example, that an Independent may not? I would like to see more disclosure on that aspect.

**CHAIR:** So the party may have disclosed that individual candidate's advertising and support in the party returns.

**Mrs DAWN FARDELL:** That is right.

**CHAIR:** It has been disclosed—

**Mrs DAWN FARDELL:** That is right.

**CHAIR:** But you cannot identify the amount, perhaps, for the individual.

**Mrs DAWN FARDELL:** To the community, it is right. Once again it appears that the Independent has a bucketful of money and has spent far more than the party when you know that that is not the true picture, and that is not a true reflection on your individual character. I just feel that it would be a lot easier for me every time an election rolls around to be able to explain the reasons for that. I guess it is a bit personal, but I feel it. I know the advertising has been double, in some cases triple, what I have done, yet it has come under "postage". All those little things do not show. As I said, it is legally able to happen, but people out there in the hotels and clubs have a perception.

**CHAIR:** Even though the Premier focused on Independent candidates, and you have indicated how thorough you are in your reporting, is there any evidence or signs that Independent candidates have not been transparent in the way that they should be to your knowledge?

**Mrs DAWN FARDELL:** I have not known that. I do not know that. I am not aware of that. I am not defending Independents, I am just here to speak what I have seen in my position. It would be very difficult for them, I would imagine, to do that.

**CHAIR:** There have been no media reports that you are aware of?

**Mrs DAWN FARDELL:** I am not aware—I have not even heard a buzz, no, and I guess, I do not go looking for that.

**CHAIR:** The Premier also announced that he advocates a ban on all private donations in favour of a system of public funding. Who should be covered by such a ban? Would a blanket ban on donations be enforceable?

**Mrs DAWN FARDELL:** I understand with the ban on all; that it should be on one it should be on all. I understand from reading the press that a proposal would be that, for example, any donations the Independents received, it would go into the Electoral Commission which would hold the funds there. But if a donation was given to a party it would go into the party head office. I have a grave problem with that. I believe the same situation should be for all. Talking about a donation, if a donation was given to myself or to another party candidate, it should all go into the Electoral Commission. I might have gone off the track there. If you are looking at a ban on all political donations, yes, that should be for one and all, and then if we are looking at the aspect of every candidate getting the same amount of money perhaps from the public purse to run their campaign, I do not believe one figure would suit all in a campaign.

In saying that I take 2 to 2½ hours to get from one end of my electorate to the other. In fairness, if I look at The Nationals member for Murray-Darling or the member for Barwon they have large areas to travel around, as does the Speaker of the House, the member for Northern Tablelands. The cost of fuel in getting around that electorate—if everyone was given \$40,000—would not cover their cost. How we juggle that figure if we all get money from the private purse or who gets what amount is a concern to me. For example, the member for Marrickville or the member for Balmain would not spend in fuel near what others would.

**The Hon. ROBERT BROWN:** The amount of funding that was spent in the last State election was approximately \$36 million according to the Australian Electoral Commission, about one-third of which was publicly funded. What is your view on whether expenditure of \$36 million for a State election is a good use of taxpayers' funds? Do you think there would be public support for full funding of election campaigns to that extent, that is, \$36 million for a State election every four years?

**Mrs DAWN FARDELL:** I do not feel the public would take it too kindly to be funding the whole election. I think if we did limit the amount somehow we could spend less. My own campaign cost \$98,000 odd but I think we could all cut back a lot. If I look at it environmental-wise as well—I am also chair of Keep Australia Beautiful—I guess I am a greenie in disguise. But I look at the number of corflutes and advertising that occur and to me there is no need for suburbs and country areas to be defecated with all the paraphernalia that goes on in advertising. I think we can cut our costs a lot less if we only had two corflutes at every polling booth rather than a whole row of them on fences. This is coming to me from the public as well. A couple of people have sat down with me and offered these suggestions. Although my submission says one I think in fairness two should be allowed.

And if we look at a less amount spent on advertising and get those costs down—if we could do it for a more reasonable figure—perhaps then the community would accept that but if they had to look at my campaign, or the campaign of the candidate against me that was \$200,000 or more just for our area, the public would not accept that. If we could get those figures down to \$50,000, for example, we may see acceptance by the public to be publicly funded.

**The Hon. ROBERT BROWN:** You are saying that you support public funding but you would like to see a cap?

**Mrs DAWN FARDELL:** There certainly has to be a cap. If we go that way there certainly has to be a cap. This is the only way we will get rid of the political donations and all the other issues.

**The Hon. ROBERT BROWN:** To follow on from that, do you support the same regime at all levels of government?

**Mrs DAWN FARDELL:** I certainly would. There must be a lower cap, of course, for local government. We have seen politics now ruining many a good council, good people going in there with good intent—and I come from a local government background. However, I feel that local government particularly should come down to no more than \$5,000 or a similar low amount.

**The Hon. DON HARWIN:** One of the challenges of bringing in a system of total public funding I suppose is how to equitably deal with new entrants into the field. Obviously major and, indeed, minor parties have been established for a period of time whereas an Independent, I imagine, would have a particular perspective about how you would deal with the first election. Obviously now you are a member you get reimbursed after the event but it is different when you are running for the first time. Do you see the system being, for example, that Independent candidates could spend up to a cap and then have that reimbursed after the event or do you think there would need to be additional measures put in place? Obviously you would have difficulty with your suppliers in circumstances as they would have to take you on trust that you would get a certain amount of the vote and then you would reimburse them. There are all those sorts of practical issues for Independent candidates when they run for the first time which the committee needs to consider if it were bringing in a system of total public funding. What is your perspective on that and what the committee should take into consideration?

**Mrs DAWN FARDELL:** First of all, the cost of my first campaign in the by-election was about \$60,000 more than the last time, but I had learnt a lot by then. There was only a short time period the first time and I had to trust people from the community to come on board and help me out. I was horrified when all these accounts were just running up and I was mortified at the expense. I would never have stood otherwise, but this time it was a lot cheaper because I learnt to control everything. I am a control freak. But an Independent or a member standing for a party still have to be known. I do not really feel the expense should be any more for an Independent member as what is allocated to a member of a party. I would like to think that all candidates, no matter at what level of government, are known in their community and put up their hand. Otherwise, there is really no point in running. No, I firmly believe the figure should be the same for all candidates. I would say everyone should have the same limit whether or not I was here to get the right people and run a good campaign.

**The Hon. DON HARWIN:** Basically you believe that new entrants should have a level playing field and take their chances if they decide to enter. They need to have a realistic expectation as far as possible of what they might get and not exceed that amount so that public funds will be sufficient to reimburse them?

**Mrs DAWN FARDELL:** I certainly do. As for the suppliers, if your response is to pay as you go, as I did last time, rather than wait to the end and be hit with it all and never rely—I was not aware the first time that I was going to get a reimbursement—on reimbursement. I was not aware of that so that is not the reason to go out there and do that, and a lot of people may not be aware of the reimbursement or the salary you get when you come in here as well. So, no, I believe it should be a level playing field and that should not change.

**CHAIR:** You mentioned the reimbursement but that only applies if they get 4 per cent of the vote or get elected so quite a few Independent candidates would not reach the 4 per cent? Is the 4 per cent an arbitrary figure or should another method be used, or should it be lowered it to 2 per cent?

**Mrs DAWN FARDELL:** Actually I do not think it should be removed which my submission confirms. If any, it should be increased to stop—I am not allowed to name individuals—people who stand and appear to have profited federally wise from that. I have read that in the press. I have problems with it being taken away because, as we all know, there are many people who stand for Parliament just to make an issue on one particular thing who are not going to get over the line, and that is their democratic right to stand for politics. But I feel if we were to lower that figure we would have a wider field of people out there putting up their hand, knowing they will not get across the line, and I should not say they are of nuisance value, but some of those groups we all know get approached from time to time. No, I think 4 per cent and over—if not 4 per cent it could be higher.

**CHAIR:** You mentioned the danger of someone trying to make a profit out of standing but in the State system reimbursement is based on expenditure so you obviously support the committee retaining that system, not the federal one at the moment?

**Mrs DAWN FARDELL:** No, as long as the expenditure is not extravagant, has not gone overboard, is not gold plated and is required basic expenditure.

**CHAIR:** The Federal Government is looking at changing its system.

**The Hon. JENNIFER GARDINER:** I think a bill has been introduced.

**Mrs DAWN FARDELL:** I think it needs to. I know the late Peter Andren was certainly at the forefront of this. He was a very good man. He gave back his expenditure one time and the second time I believe the expenses went over and he donated it to charity. The people of his electorate welcomed it, of course, and it went back to where it came from, the taxpayer. Others are accumulating a surplus and I believe that should be resolved.

**The Hon. AMANDA FAZIO:** Some jurisdictions have a ban on political parties advertising electronically. They are not allowed to advertise on television or radio, which, of course, massively cuts the cost of participating and campaigning in an election. What are your views on that matter?

**Mrs DAWN FARDELL:** Yes, I believe we should stop the Monday before the Saturday, the election day, to cut down on those costs. I think at the moment advertising in rural areas, for example, in Dubbo where I come from we have more opportunity than perhaps an urban candidate. It must be difficult for an Independent candidate to get their face on the nightly news whereas in rural areas we are able to do that through our local WIN and Prime television channels. We have that opportunity that a lot of our city counterparts do not.

That opportunity is always there but that advertising finishes by the Tuesday night or the Wednesday but I believe we should cut back that expense and stop all forms of advertising a lot earlier than what we are doing now. The last minute phone calls on the Friday—many parties are now moving to the American system by using the telephone and recorded messages, which is not always appreciated by the person at home having their dinner or whatever. At all times we need to look at what the consumer constituent feels about being pestered with mail boxes full of leaflets and advertising on the television and the phone calls. I think we are going overboard and I feel Australia is too polite to adopt the American system.

**The Hon. JENNIFER GARDINER:** One of the issues the committee needs to deal with is the question of third party donations. Have you ever received any donations from individual groups? For example, I noticed in your latest return you have some small donations from a property developer and two others and then the largest donation of \$25,000, out of \$28,000, from Mr Fardell. Was that just one sum from Mr Fardell or did he bundle up some other contributions and then donate one cheque for \$25,000?

**Mrs DAWN FARDELL:** No, it was one cheque for \$25,000, which has since been repaid into his retirement fund. It was at a time two weeks out, because I was aware of the impact of the main contender, I guess, in the media advertising. A few other options came up and we could see the campaign going for another \$25,000 so I just asked for \$25,000 to help me out. It was one cheque he wrote out and that has since been repaid. It was just one amount that he transferred from his personal account.

**The Hon. JENNIFER GARDINER:** He also did that in the by-election?

**Mrs DAWN FARDELL:** Yes, he helped me out a lot more in the by-election, which has also since been repaid.

**The Hon. JENNIFER GARDINER:** Another issue is the question of transparency and accountability of the whole process. How does your campaign pay for items, for example, television advertising? Is that a cheque from your agent, your campaign or are any payments made in cash?

**Mrs DAWN FARDELL:** I pay all that myself. Apart from those you listed, the rest was my own funds that probably a year before I put into an election account and accumulated those funds and I paid for it as I went along.

**The Hon. JENNIFER GARDINER:** Out of a cheque book or cash?

**Mrs DAWN FARDELL:** No, cheque book. Deposits have gone into an election account and I had a cheque book written out in that way.

**The Hon. JENNIFER GARDINER:** Mrs Fardell, you mentioned the question of expenses of incumbent members, for example, in the large seats of Murray-Darling and Barwon. Of course, those members get an extra electorate allowance to cover at least some of their extra costs because of the size of their electorates. Do you suggest that the Parliamentary Remuneration Tribunal process and the public funding of election campaigns process should somehow be intermingled?

**Mrs DAWN FARDELL:** I think so. Personally for my seat that takes only 2 or 2½ hours to cover I do not feel I would need extra amount to get around to conduct a campaign or whoever replaces me when I am out of this job, but I firmly believe that it would be difficult for people in large areas such as Murray-Darling and Barwon and if they were allowed an extra \$5,000 to cover costs or a figure near that amount it would be fair. In some cases they need to hire a plane to get around, or the candidate, if not already a member, if someone were to challenge them in an election, that candidate I believe, if we are looking at public funding, should receive that same allowance.

**The Hon. DON HARWIN:** They have that system both of reimbursement and the actual spending limit for members in northern Canada.

**Mrs DAWN FARDELL:** Okay.

**The Hon. ROBERT BROWN:** Under the heading in your submission of "public funding" you say "there appears to be no obvious value in the political education fund beyond a slush fund for the formation of political parties", the eligibility criteria for the political education fund are somewhat complex in that you have to run in the upper House but then the amount that is paid to you is paid on your votes in the lower House. So as an Independent candidate running in the Legislative Assembly only, obviously I could say that you probably would have that view. As a party running only in the upper House, we actually have a similar problem in that although we are running in the upper House, and although we have our elected representatives, there is no distribution of funds because we do not run in the lower House. Therefore we have no lower House votes on which to calculate.

**Mrs DAWN FARDELL:** Okay.

**The Hon. ROBERT BROWN:** How do you see some equity being introduced? It appears from your submission you are saying, get rid of the political education fund but what if it were made available to all successful candidates be they party, Independent, upper House or lower House?

**Mrs DAWN FARDELL:** My reform would be that we have too many tiers of government but I will not go there in front of this committee. But certainly I believe if you are putting yourself in a position to represent a community, and you all do that—you are representing New South Wales as a whole—that is your role to do that and you are out of pocket as well. Yes, I think it would be unfair of me not to say that I do not believe that you should be given some form of compensation as well.

**The Hon. ROBERT BROWN:** And lower House Independents who do not stand in the upper House, obviously?

**Mrs DAWN FARDELL:** It is unfortunate that the system does not allow for Independents to be in the upper House. It is very difficult to see an Independent get into the upper House now, and I think that is very unfortunate as well because I think at times it gives a good balance of power, as we are seeing the Federal system at the moment. So I have a problem with that.

**The Hon. ROBERT BROWN:** You believe that any electoral reform should be done at all levels of government if it is going to be good reform?

**Mrs DAWN FARDELL:** Yes. We should not treat candidates differently, no matter who they are or what party they are from. We should all be on a level playing field. No matter whether you

are a party person or an Independent, if we are looking at the funding of the campaign and the expenses, we should be looked at with the same fairness.

**The Hon. ROBERT BROWN:** Another point you make under public funding is that tax deductibility for public donations should be abolished. I guess the alternative view is that if political donations are made in the spirit in which they are intended, they are an ability of people to express themselves. What is the rationale behind the abolition of political donations? Just simply because you feel that the two are not connected so why have it in the first place?

**Mrs DAWN FARDELL:** I do not believe that it should be tax-deductible; I do not believe in that at all. Politics is not a charity, if you are supporting someone. It is not like donating to your church or Keep Australia Beautiful. To me, it is not a benefit at all; it is only a benefit to the person giving the donation and it is no real benefit—except the funding coming through—to the candidate, but I think we have overstepped the mark in allowing donations to be tax deductible.

**CHAIR:** You have reservations about the Political Education Fund itself?

**Mrs DAWN FARDELL:** Yes, I do. Perhaps I might need more knowledge about it but I do have difficulty with it.

**CHAIR:** As to its real value?

**Mrs DAWN FARDELL:** Yes.

**The Hon. MICHAEL VEITCH:** You mentioned that you have been involved in local government prior to your time in this place. Can you talk us through your views on whatever regime is put in place for the State, whether it should be replicated with local government?

**Mrs DAWN FARDELL:** Yes. Many constituents have come to me in this regard. We have local government elections coming up in September and people would like to know before they go into vote who has contributed to whom with political contributions and who is assisting whose campaign. It may not worry too many people in the city areas but certainly where I come from in rural areas people like to know who is who. Unfortunately, some people take issues personally but whatever we put in place here or federally should be right across the board and we should have a level playing field for all. It has been there for a while but in many cases we are seeing the downfall of many councils.

**The Hon. MICHAEL VEITCH:** That raises the question about disclosure of donations. Do you have any views about the sort of regime, process or framework that we should put in place?

**Mrs DAWN FARDELL:** All disclosures should be out there. We should know at least one week before where the main funds coming from, whether personally or the little \$500 here or there but certainly anything over \$500. In the present system there are too many loopholes, such as \$500 could be broken up into two anonymous \$250s. I have not done so but I can see the loopholes that people could get away with. It does not matter whether someone gives you \$1. I have had a couple of receipts I have just handed out and they were from members of political parties, which is why they did not want their names there. They were only for small amounts, but I believe no matter the amount given, whether it is \$1 or \$100,000, the name should be disclosed.

**The Hon. MICHAEL VEITCH:** I am keen to talk about the local government aspect because, like me, you are from a rural area. Other witnesses have spoken about the need to put in place may be quarterly or half yearly audited returns from councillors. What is your view about that?

**Mrs DAWN FARDELL:** I really do not think that is necessary. I do not go seeking donations. I do not have fundraising; other people do. That is a lot of work for somebody to do. I do not know if you would pick up any flies in the ointment doing it quarterly or half yearly. I believe in the present system, if it was declared a week out where your main donations were coming from, if we are going to still stay on that line, rather than go to public funding.



**The Hon. MICHAEL VEITCH:** Do you have a view about electronic funding disclosure so that people can go to a website for people to see rather than hard copy?

**Mrs DAWN FARDELL:** I think we need to have both. There are still a lot of people who are technically challenged and who may not have the equipment but who are good people who have the right to know as well. I guess the media could reveal it electronically but I do not have a hard and fast rule on that.

**The Hon. MICHAEL VEITCH:** The Premier has recently stated that he would like to have in place some sort of process or regime for the upcoming local government elections. Do you have a view on that, some time frame, and whether it should be in place for this round of local government elections?

**Mrs DAWN FARDELL:** I hope the Premier takes heed of this inquiry and what has been brought forward to it, but we may as well start somewhere and surely we would know if we are going to change things and we could do that in time for the September local government elections.

**CHAIR:** One of the dilemmas that you mentioned a moment ago was knowledge of the donation a week out from election day. If someone is deliberately trying to conceal the source of the donation, to give that information on the eve of the election or after the election, or for a developer, say, to make a promise "I will look after you after the election". How can we control that activity?

**Mrs DAWN FARDELL:** Unless people could declare that they might not have the funds yet but a declaration by would-be contributors or somebody who might want to pick up any funding at the end of it all, I do not know how you would control that. I guess it is the honesty system how you control it beforehand as well. There are so many loopholes while we continue with political contributions. Smarter people than us in this room, or people who think they are smarter, can find loopholes to cover that up. Perhaps public funding might be the way to go.

**CHAIR:** Another possibility would be to have a cut-off date for donations prior to an election. In the same way that we have a blackout for the media, we would have a blackout on donations and no post for election donations. Would that system work?

**Mrs DAWN FARDELL:** I would hope it would. As I said, a lot of the candidates do not do the own work. The first example I gave was a classic example where I had workers going out willy-nilly buying a drill when I had two at home in the garage to put things up. As long as you have someone on the ball to keep an eye on how the funds were going, the amount of money you did have to spend, otherwise you could find outstanding accounts you had not allowed for.

**CHAIR:** Perhaps to get rid of any perception of corruption you would have to ban political donations and have political funding with a cap on expenditure so there is not unlimited use of taxpayers dollars?

**Mrs DAWN FARDELL:** I can see that is the only way you could probably clearly follow that but once again keeping in mind the allowance for people in remote areas whose travelling expenses would be a lot more than someone at Marrickville.

**CHAIR:** I think you said your expenditure was \$98,000. Would that be a cap for a country candidate's expenditure?

**Mrs DAWN FARDELL:** I would think that a country candidate you could easily say if you had \$60,000, well have a good life. You will not get a campaign for that, but if we stopped all these ridiculous electronic wagons being towed into town or around the place with vote for whoever, that Americanisation, and went back to basic campaigns—I know it sounds raw—and everyone just ran basic campaigns and cut down on the corflutes and advertising, particularly one week out, I think it would be a lot better. Certainly the people I speak to would prefer that.

**The Hon. DON HARWIN:** You spent \$98,000, you said. I imagine that was largely because of the perceived threat of your opponent. Would you regard that as a reasonable amount for a seat like Dubbo or would less than \$98,000 or \$100,000 be the benchmark?

**Mrs DAWN FARDELL:** I thought \$80,000 would be the limit and I certainly recycled lot of things from 2½ years ago because I did not think I had aged all that much, so I kept the same photo but it would not work next time, put it that way. I probably spend \$15,000 to \$18,000 more than I would have wished to, but I did do more media this time; very little handouts and more media. I chose to do that, not because of any threat or fear, but we just happened to do that. I was on the road constantly, it being a new electorate, new boundaries, where the fuel was extra. It was quite expensive travelling up and down the Newell Highway every day. Also, having to come back every evening was very expensive. If you stayed away, you had the cost of motels, which country candidates have. A lot of expense was certainly the distance reaching new areas. I do not know about yourself, being in the upper House, but I have eight different papers to consider getting things in.

**The Hon. ROBERT BROWN:** Any tidying up of the system would mean that the resources would need to be there to do it. Can you give us your thoughts on the structure of the Electoral Funding Authority? Do you feel it is properly resourced? Do you feel its operations are transparent? Would you believe that its enforcement activities are effective and, if not, do you think a new structure or extra funding or extra resources should be applied?

**Mrs DAWN FARDELL:** I feel they are as effective as they could be. I have no harsh criticism of them except perhaps they might be underresourced manpower-wise to be able to look into the loopholes that I can see and you may be aware of. Perhaps they need to consult more rather than just at this particular time and look at all candidates' campaigns on why they spent what they did and what they got for their dollars and talk to the political party headquarters. I really think they need a bit of time and resources to get into that. They are probably running as effectively as they could at the moment.

**CHAIR:** In summary, what would you like to see our committee recommend as its main recommendation as a result of this inquiry in regards to donations for political funding?

**Mrs DAWN FARDELL:** There is always going to be loopholes with donations. Another aspect I should have mentioned before, I have no doubt that public funding would be the way to go. One proposal which I think came from the Premier was that Independents put their money into the SEC or other political party candidates, if they get a donation, would put it into party headquarters or declare. I can still see a loophole where it might be a developer or somebody who should not get involved with the candidate would say, "I will organise your TV advertising in my name and spend \$25,000, then you won't have to see that money." That can occur for an Independent too. "We won't give you \$25,000 when you have to give it to the Electoral Commission. We will pick up the tab in our name and give you \$25,000 worth of television advertising." I can see that loophole. The only way to stop that would be public funding and a limit for all candidates but perhaps looking at an extra allowance to allow for who have to cover more distances.

**CHAIR:** Thank you for appearing before the inquiry. We appreciate getting another viewpoint for our report.

**(The witness withdrew)**

**LEE RHIANNON**, MLC, Parliament House, Sydney, before the committee, and

**NORMAN LEE THOMPSON**, Director, Greens Political Donations Research Project, affirmed and examined:

**CHAIR:** Members of Parliament are not required to be sworn as they have already sworn an oath to their office as a member of Parliament.

**Dr THOMPSON:** I am here really as a private individual, speaking for myself.

**CHAIR:** Do either of you wish to make an opening statement?

**Ms LEE RHIANNON:** Yes, we will both make a few comments.

**CHAIR:** Please proceed.

**Ms LEE RHIANNON:** Thank you. There is widespread support for a ban on political donations from corporations and other groups.

I base this statement on my work with many communities across New South Wales, particularly in Sydney and along the New South Wales coast. The work of this inquiry has also demonstrated the breadth of support for a ban. Of the 176 submissions on the website as of 30 March 2008, 47 support a ban on political donations from corporations and other organisations and only 4 explicitly were opposed to banning political donations. Another 18 argued for bans on some industry groups, or allowing donations only if the shareholders of the company approved of them.

Premier Morris Iemma, Liberal leader Barry O'Farrell and National leader Andrew Stoner in recent weeks have changed their position and now support some sort of ban on political donations. I believe this has only happened because these leaders have come to realise the high level of community concern about the corrupting impact of political donations.

I have been working on The Greens campaign to ban political donations for the past eight years. The Greens *democracy4sale.org* website was set up to bring greater transparency to the donations process and highlight the need for major overhaul of electoral funding laws.

We believe that it is very wrong that representatives of corporations and other large organisations use money to buy access that the majority of people could never obtain.

In brief, The Greens plan for electoral reform includes a ban on donations from corporations and other organisations; a cap on donations from individuals; limits on State election expenditure at \$30,000 per lower House candidate and \$1 million for a Statewide election campaign; increased free-to-air time for parties on electronic media outlets; limits on third party election expenditure of \$50,000 for four months prior to the State election date; and more resources for the Election Funding Authority to ensure that parties, candidates and donors accurately disclose their funding arrangements and comply with any bans.

I would like to make some specific comments on the new position of the Premier and expand on a few of the points just raised.

From media statements it appears that Mr Iemma is now advocating a ban, not just on donations from corporations and other organisations, but also from individuals.

The Greens party urges members of this inquiry not to support a ban on individuals donating to political parties and third parties.

Individuals should be able to donate to political parties, but only up to a fixed amount, so that wealth does not continue to dominate electoral outcomes.

Individual donations also need to be retained so that emerging parties and independent candidates have some funding source. In our submission we recommend a cap of \$10,000. We would support that cap being much lower.

Any system of bans and caps on donations also needs to apply to fundraising events. Sometimes it is suggested that money given at a fundraiser is not a donation. Lend Lease is one of a handful of companies that has publicly announced that it will no longer make political donations, but an examination of the electoral returns with the Australian Electoral Commission [AEC] shows that representatives of this company have made significant contributions at fundraisers.

For a ban to be effective it is essential that third party electoral expenditure is also limited. If such a ban is not put in place the corrupting influence of political donations will continue.

In New Zealand third parties are limited to spend up to \$120,000 in the three months prior to an election; in Canada third party spending is limited to \$150,000. Not more than \$3,000 can be spent in each electoral district.

In bringing forward your recommendations, which we hope will advocate some form of ban, we urge that you consider how emerging parties and independent candidates will fare.

In recommending changes to the current electoral funding regime we also urge that you consider how parties will fund their non-election activities. At the moment some parties have access to public money from the political education fund. We support independent members of Parliament and parties that do not run in lower House seats being able to access this money.

The Greens hope that the recommendations from this inquiry do lay the basis for a major clean-up of electoral funding.

To date some attempts have been made to discredit The Greens work on donations. In February last year we rejected an attempt by Lake Macquarie property developer Keith Johnson to donate \$1,000 on line. At 10.23 p.m. on Tuesday 6 February Mr Johnson made an online credit card donation in his own name. The very next morning he was quoted in a Newcastle paper as saying he has occasionally given money to The Greens.

After Mr Johnson's name rang a bell with an office worker, The Greens Sydney office rejected the donation by midday that same day. Treasurer Michael Costa on a number of occasions has used this case to mislead the New South Wales Parliament by stating that The Greens accept donations from developers. We do not.

Many people believe donations are bribes. Now I am not alleging that any politician is corrupt, but I think as politicians we all need to be aware that the current political donation system is damaging the democratic process.

I find increasing cynicism about politicians and the electoral process developing in the wider community.

Since a Wollongong scandal broke, my office has been contacted by individuals and organisations worried about similar events in other areas. Myself and other Greens MPs have received a number of documents about alleged corrupt practices in the Sutherland Shire Council area. On behalf of The Greens MPs, Sylvia Hale has forwarded this material to ICAC. I have also received information about serious problems with respect to planning and donations in the St George area.

I also draw your attention to the submission from the Wyong Shire Council. This submission sets out how some businesses run a scheme to hide donation details from the public and sometimes even from the candidates.

A number of corporate donors make out their donations to an intermediary entity. That body then gives money to entities associated with candidates and it is that body that then gives donations to individual candidates. This is what is detailed in the Wyong Shire Council's submission to this inquiry.

I have received information from people associated with that council and their activities that suggest that possibly ten companies are involved in this scheme, most of whom are local developers. I have been advised by a reputable source that two of the companies that gave money at arm's length to the intermediary entity during the last Wyong council election were the developers Rosecorp and HomeZone. The Wyong scheme highlights the need for electoral funding reforms to be introduced prior to the coming local government elections. My colleague Dr Norman Thompson will speak about local government funding reform.

If the Premier and indeed this Parliament fail to bring in meaningful change to the current political funding laws, the degree of cynicism and anger in the community about the political process will only escalate.

Democracy is being damaged by donations. Your recommendations, if far-reaching, can turn this around. Thank you for the opportunity to be able to speak today.

**Dr THOMPSON:** I would like to thank the committee for letting me come and speak today. After working for six years on the "Democracy 4 Sale" research project I feel that this is really a major issue that is facing New South Wales and the entire country. I think it is undermining people's confidence in our democracy and I think you really have the chance to make or suggest major reforms, which I hope you do.

There are two areas I would like to talk about very quickly. One is transparency and compliance and the other is local government donations and disclosure and compliance. I probably will not have time to talk much about local government and if it does not come out in the questions I will be more than happy to make yet another submission, if the committee is willing for me to do this.

Transparency and compliance: I have been working at the coalface now for six years. Lee put out a call for volunteers six years ago for someone to work 30 hours on this project and now, after several thousand hours of actually going through all of the donations reported to the Australian Electoral Commission [AEC] since 1998-99, along with the many volunteers that we have, I have seen many problems with the Australian Federal system. I have worked with the State system after the 2003 State election and a great deal after the 2007 State election and I do see a number of problems with the way that the Election Funding Authority [EFA] operates.

My criticism of these is certainly not of the individuals. I have met with many individuals from the AEC in Canberra and Sydney and certainly have dealt for long periods of time with people at the EFA. They are very dedicated, highly competent people who are politically neutral, but they are willing to give you all the information that is required of them, yet they are operating, I think, in a system that is not conducive to transparency.

I have talked about this in my submission and my supplementary submission, but let me just mention a few things. One reason I am talking about the Australian Electoral Commission is that, with only disclosure at the State level every four years, in order to have any understanding of the donations coming through we do have to use the AEC data.

One problem is that there is no cross-checking between the two agencies, so we have found that the EFA never checks the donation material that comes to them with what has been reported to the AEC. I think that is a mistake. They probably do not have the resources, but in an electronic age we should be able to cross-check very easily and very quickly and you will find that there are a number of inconsistencies. I have found a number of inconsistencies, and these are the sorts of inconsistencies that I believe should be followed up if you want to have a more transparent and open system.

There is another major problem, and I do have a hand-out. My guess is—and it is really a guess from working for six years on this project—that approximately 50 per cent of donors do not submit the required return to the AEC. It is hard to say much about the EFA because the donors' forms are not put on the EFA website, but I have found instances, certainly in 2003, where donors have not submitted the required forms. I think that it is important: it is part of the law that they must—it is a legal requirement—plus it also gives us additional information. We have been able to use donors'

forms to find out more about the companies, and also I think it is important because you can cross-check the donors with what the parties submit.

I have only used Richard Vereker because he has been in the newspaper quite a bit—in *The Australian* recently—as the largest individual donor to the Labor Party in New South Wales. The AEC does not require parties to give the dates of donations, so many times they do not do it, but fortunately the ALP was very accurate and thorough in 2006-07 and gave the date of Mr Vereker's donation of \$75,000. It is during the time that it should have been reported to the EFA by the Labor Party as well and I have searched and searched through the records and cannot find that the ALP has actually indicated that he donated all of this money.

You will notice that I took the top five donors to the Labor Party in New South Wales and to the Liberal Party and you will see that most of them did not submit the required donor's form. I think this is something that should be followed up and there should be more compliance.

Marbal—and many of these, by the way, are property companies—did submit one to the EFA but in spite of, I think, three letters written by the EFA to the company, the last I heard two weeks ago they had not submitted the required form. So I think this is a real problem—that they really should comply with the law because it gives us very important information.

There is a problem I have noticed—and if you look at the Elections Canada website it is an excellent website; it is really outstanding. I use in my writings and in my speeches Canada as the example of how we should move forward towards reforming our system. I should say as an aside, irrespective of my accent I am not a Canadian and have never been a Canadian so I am not engaging in some sort of nationalistic pride, but it is a very good system and it is a very good website. The AEC is very user unfriendly: it is very hard to search and it is very hard to get the information you require from it.

The Election Funding Authority website is even worse. It is not something that the EFA is required to do: they are required to give us the information but they are not required to have a website. I think it would be important that it is written into the law in this digital age that we do have good accurate information on websites. So there is a great deal that is not on the website from the EFA and it is very, very difficult to search.

Other ways to improve transparency is that many times money is funnelled through various organisations that then do not have to report where they obtained that money. One example, of course, are the State electoral councils that the major parties set up and we see that many times they are the major funders for the individual candidates' election campaigns and yet you do not know who donated to those SECs. And they are even used in local government. In the 2004 election in Cessnock most of the money for the Labor councillors' campaigns came from the Cessnock ALP SEC, so we do not know who is giving money to the campaigns.

I think there should be either continuous disclosure or very frequent disclosure. The system right now is quite inadequate.

Certainly we need to reduce the thresholds and I am so glad to see that the current Federal Government has flagged that they are going to reduce the thresholds, because when the Howard Government moved to increase the threshold to over \$10,000 linked to the CPI we saw much money being hidden.

I just want to give you an example. Last week I started looking at the difference between the EFA disclosure and the AEC disclosure only for the Labor Party and only for property donors. I have gone through, and you have to be very careful to check to make sure they are all property companies. I have only had two days to work on it and I have only been able to get through E in the alphabet, so I have got a lot more to go. Yet between 8 December 2005 when the Federal changes occurred and 23 April 2007 which was the cut-off date for reporting to the EFA—about 16 months—I have found that almost half a million dollars of property donations that went to the Labor Party were hidden in the Federal system. So I think it really is important that we push very strongly for much lower thresholds for disclosure.

The last thing I want to say is that I believe in local government elections we should have public funding. I think we could talk about a maximum of 50¢ per voter, which means that it would only cost the State approximately \$2.4 million. I think donations, again, should be capped from individuals and banned from all other organisations and businesses for local government.

One difference I would make for local government as opposed to State and Federal elections is that the disclosure threshold should be uniformly \$200 or more, whether it is a party, a group or a candidate. If you look at the LGA of Sydney, where we have seen very large campaigns in 1999—over \$1 million was spent and a great deal of money was spent in 2004—it does not take much money to gain access to your local councillor through donations. Therefore, I think that all people, all candidates, all parties should report all donations over \$200.

The last point I would like to make is I think there should be more funding for the EFA to investigate both expenditure and donations. One of the problems I have seen personally, not from the Greens but from other campaigns, is that gifts in-kind many times are not reported accurately, and I think that should be looked at very carefully.

**CHAIR:** Thank you very much for that very comprehensive presentation. In those figures you gave us you are critical of some donations being disclosed to the Federal authority, the AEC, but not to the EFA. Do you think it is sufficient for donations to be reported to one government authority or should it be reported to both?

**Dr THOMPSON:** Yes, I think it should be reported to both, particularly as long as we have a four-year period in New South Wales, because it is important to see the pattern of donations. We found some very interesting information when companies have actually put their donors' forms in. If we move to a yearly or twice a year reporting both Federally and State I think we should consider that. But I would never argue for the State not having its own disclosure regime, because we could have the situation of government being formed Federally that has control in the lower House and the upper House and they could again raise the disclosure threshold so high that it would hide most of the money.

**The Hon. DON HARWIN:** But, for example, if the State Parliament was happy with the Federal arrangements, as may be the case in the future—that remains to be seen—would you be in principle opposed if the State Parliament said an adequate form of disclosure will be to comply with all the requirements of the Commonwealth Electoral Act and other relevant legislation in relation to election funding?

**Dr THOMPSON:** I am not really sure of that because I really believe that this must be investigated very carefully, both the disclosure of donations—particularly gift in-kind—and also the disclosure of expenditure. I do not think the Federal agency would be able to do that well so I think we still need the State agency, which means that they must have that data at hand.

**The Hon. DON HARWIN:** I do not recall if you were here when we heard from the Commissioner and the Secretary of the EFA on the first day—

**Dr THOMPSON:** I was.

**The Hon. DON HARWIN:** You recall there was a very large degree of non-compliance with donors needing to put in declarations. Given that size, would you concede that probably a very large amount of it is simply because of human error and not necessarily because of any wish to actually hide the fact that they have made a donation, particularly if they have done it at one level and have not done it at another?

**Dr THOMPSON:** I am really not sure. I find it interesting that the EFA sends out several letters and the last letter has in bold at the top "Final Notice" and the company still does not submit a return. I am not sure why they do not but they do not.

**CHAIR:** That is the point we are making. They may actually feel in their mind they have covered it by reporting it to the AEC. Somebody in the accounts department says, "We have sent that return in already. It is just duplication."

**Dr THOMPSON:** That is certainly possible. But they do cover different periods so it would be hard for them to really argue that very strongly I would think.

**The Hon. AMANDA FAZIO:** Lee, I just need to clarify something in your submission. On page 3, recommendation 1.3, you say, "Capped donations to the level of \$10,000 annually from individuals who are not members of the political party receiving the donation", and at the back in your summary it says "\$1,000".

**Ms LEE RHIANNON:** That is a typo.

**The Hon. AMANDA FAZIO:** So do you support \$1,000?

**Ms LEE RHIANNON:** Yes. We just picked that up today when we were reading it ourselves.

**The Hon. AMANDA FAZIO:** Dr Thompson, you are saying your proposal is that donations should be capped at \$2,000 per year to any one political party unless the person is a member of that party. You say the cap should be \$10,000 a year for members of the party. I just wanted to get your views on this: Is that not just another way of sort of covering up donations, because to somebody who came to you and said, "I want to donate \$10,000 to the Greens", you could say, "You are not a party member, you can only give \$1,000. But if you fill in the application form and become a member of the Greens of course we will take your \$10,000". Do you not see having that level of difference between party members and non-party members as being able to be manipulated to allow people to donate who otherwise would not be allowed to? And in any case, why should there be a different level for party members versus non-party members?

**Dr THOMPSON:** So much has happened since I wrote my first submission because of Wollongong that I really have begun to think more and more about this and some of these issues. I was really thinking in terms of the smaller parties like the Christian Democrats, the Shooters and the Greens where we have far fewer members and some members are quite affluent and that perhaps it would be to the start-up parties', the new parties', advantage to have larger amounts from the individuals. And that is official Greens policy right now. I must admit as I have thought more and more about it, and I am speaking as an individual; I do think it is too high and I would argue that \$1,000 from everyone is probably reasonable.

**Ms LEE RHIANNON:** Just to add to that: As Norman said, our submission also was written at a very different time. Personally I think it should be much lower. There is a discussion within the Greens now about what the level should be. I would be advocating the same amount for individuals, irrespective of whether they are a member or not a member, and for it to be much, much lower.

**CHAIR:** Just another point to clarify this, Ms Rhiannon. You talked earlier about focusing on banning developers' donations and then you talked generally about donations from corporations and unions, but you want to separate individuals particularly to allow minor parties and independents still to survive, and that they could receive donations.

**Ms LEE RHIANNON:** I think also the individual donations are important for emerging parties. As we are all aware, each election largely throws up new parties and independent candidates and I have a real concern about not allowing there to be any donations from individuals. It could make it impossible for such parties to emerge, and that is an important part of the democratic process. So, while we are obviously really pleased the way the debate has shifted in the time this inquiry has been operating, we need to really look at it carefully. As Norman has outlined, the Canadian experience is very useful for us: they do allow individual donations but there is a tight limit on them, and that system has now been operating for many years, and operating successfully.

**CHAIR:** And you think you could prevent any potential corruption from developers coming in under that cover by capping the donation?

**Ms LEE RHIANNON:** If the cap were lower, being able to donate only, say, \$1,000—which I think would be quite justified for individuals—is a big difference from the unlimited amounts



that currently can come in. As we know, sometimes those donations are in the order of hundreds of thousands of dollars. Having said that, we know that human beings are often able to get around things in all sorts of extraordinary ways. But the experience with Canada is that that legislation since it came in how many years ago—was it six years?

**Dr THOMPSON:** It has changed over a long period of time.

**Ms LEE RHIANNON:** That is the point I wanted to make.

**The Hon. DON HARWIN:** It was first introduced in 2002.

**Ms LEE RHIANNON:** Yes, six years ago. In those six years there have been many amendments to the legislation. That is what is really needed. It is worth remembering that the Election Funding Bill that was introduced in 1981—which interestingly the Coalition opposed at the time—came in with great fanfare and also with a commitment to clean up the democratic process. I will share with you a comment that Mr Wran, the then Premier, made when he gave the speech obviously introducing this bill. He said:

It removes a risk of parties selling political favours and declares to the world that the great political parties of New South Wales are not up for sale.

I do not doubt that Mr Wran was sincere when he said that, but the problem is that the legislation stalled. We have not looked after democracy. Going back to your question, I cannot rule out that corrupt practices would not occur if we brought in the limits that we are proposing. I think it would be much harder. But then the responsibility of this Parliament would be to regularly review and amend the legislation as required.

**The Hon. MICHAEL VEITCH:** Are you proposing \$1,000 per person per political party?

**Ms LEE RHIANNON:** Per political party and usually per year. I think that is how it works in Canada.

**Dr THOMPSON:** Yes, that is just for one political party.

**Ms LEE RHIANNON:** For one year.

**The Hon. MICHAEL VEITCH:** In essence, you would deny people the opportunity to hedge their bets by putting \$500 with the Greens and \$500 with the Shooters Party. You say just the one political party?

**Ms LEE RHIANNON:** Yes, with the individual donations. As you can see, we had one amount in our submission, because of the changed circumstances. That is also partly acknowledging the complexity here. I am really pleased that we have been invited by the Labor Party—we had our phone call today—to meet with Mr Bitar because we are interested in what the inquiry comes up with and what other parties say. Hopefully we can sit down and negotiate what will work, how we can manage and how we can close the loopholes that so often are exploited.

**The Hon. MICHAEL VEITCH:** I am particularly interested about impacts on rural councils. I am not talking about councils like Dubbo but councils with less than 10,000 people. It is all relative, if I might say. So \$200 would buy significant influence in a shire like Weddin as opposed to the influence that \$200 would buy in St George or Wollongong. Would you talk a little more about the \$200 limit?

**Dr THOMPSON:** Perhaps a graduated disclosure limit?

**The Hon. MICHAEL VEITCH:** Yes.

**Dr THOMPSON:** My experience at the local government level in all of my research has been South Sydney council and Sydney council. I have seen that the \$1,500 limit or the \$1,000 for a group has hidden a lot of really important donations from people who have something they really want to push and want the candidate, including some councillors currently elected, to push. Had the \$200

threshold been in we would have seen those. Smaller councils I do not know. Perhaps there could be some sort of system of even lower thresholds.

**The Hon. MICHAEL VEITCH:** We have had put to us on a couple of occasions during our hearings that there are two sides to the property developer debate. There are those who are property developers as defined under the Environmental Planning and Assessment Act and there are the objectors. Up until recently I have sat on local government for 12 years with Young Shire Council and have felt the wrath of objectors as well as of people proposing development. I did not take money from either side, by the way. It has been put to us for fairness and transparency that people from both sides of the debate donating money to candidates should be disclosed, not just the property developers.

**The Hon. DON HARWIN:** Not just the proponents, the objectors as well.

**Dr THOMPSON:** Yes, I certainly agree. For development applications you are talking about?

**The Hon. MICHAEL VEITCH:** It is not mentioned in your submission. You talk about property developers, not the other side.

**Dr THOMPSON:** Yes, I certainly agree. It is not just property developers. I would say that in the local government area of the city of Sydney the two real problem areas are property and hotels and clubs. I know there are a lot of submissions trying to limit opening hours, et cetera. I think people who make those submissions should also declare their donations.

**The Hon. AMANDA FAZIO:** While we are on the city of Sydney, I want to ask a question. In the past, Lee, you have been vocal about what you believe are attempts to sabotage Greens campaigns by sections of the media who, you say, misrepresent Greens policies leading up to elections, thereby putting your candidates at a disadvantage. As part of this whole process of donations and funding, how should we look at these other third party endorsements, particularly in the city of Sydney? When I opened the *Sydney Morning Herald* last week I was amazed to see it had given front-page coverage to Clover Moore's re-election for Sydney. Her campaign received great coverage in terms of her plans to revitalise the city—coverage I do not believe that any candidate could afford to buy. How do you think we can try to build that sort of thing into the system as well? For example, in-kind donations—if someone were to loan a candidate a car for the use of a campaign that must be declared. What about where people get massive free kicks courtesy of the media that others do not get?

**Ms LEE RHIANNON:** That sounds like a whole new inquiry. Media ownership, I would love the Labor Party to bring that one on.

**Dr THOMPSON:** I do not think all those in-kind donations are declared accurately as well. I have actually seen some that were not.

That is a major problem. And also particularly when you take everyone else's policies and put them together and say they are yours and get all the credit.

**Ms LEE RHIANNON:** The point you made about newspapers, that is obviously one of the biggest challenges that we face. Just in terms of your opening comments in your question, we have made heaps of complaints about the media misrepresentation of certain policies. But largely we roll with that. In terms of the issue you raise about third parties, we do hope that the inquiry brings forward clear recommendations about third parties. If we do not tackle third parties and just limit the bans to political parties themselves, we could just see a shift in the corrupting influence of donations to another area. Again there is the overseas experience to show that this can be managed. We tend to feel in putting the limits in place, which is spending only a certain amount of money in the lead-up to an election—I think we have put on it four months—you clearly need to have fixed term elections. While that is possible at a State level, at a Federal level—and hopefully these changes will flow to a Federal level—they would need to go hand in hand with fixed term elections to be able to manage the limits that would need to be put on third parties.

**The Hon. ROBERT BROWN:** Ms Rhiannon, I note in your short statement at the start you gave some idea of what the limitations on expenditure on campaigns should be—\$30,000 per Legislative Assembly candidate and \$1 million per party for statewide elections. The latest figures from the Election Funding Authority tell us that for the 2007 State election roughly \$12.8 million was provided in public funding through both the Political Education Fund and the main fund. Your costings roughly come in just under \$10 million. What are your thoughts on going for 100 per cent public funding with a cap like you have suggested and no political donations, including no individual political donations?

**Ms LEE RHIANNON:** I may have missed something. Maybe I will ask a question so I understand. You would have heard both in my opening remarks and I think I have mentioned a couple of other times the issue of emerging parties and independent candidates. Under what you have proposed, how would they be covered?

**The Hon. ROBERT BROWN:** If they met the threshold after an election, as existing parties do now, they would achieve funding.

**Ms LEE RHIANNON:** Although we obviously have our differences, Mr Brown, I think we have come from that place of trying to get a small party going. If there were no individual donations before the election, you still need to be able to pay the printer, get your how to vote cards and all the rest. I cannot see how a lot of emerging parties would be able to manage and come through and that would be a real setback for the democratic process.

**The Hon. ROBERT BROWN:** Interestingly enough, this morning a presenter put the proposition that the percentage of vote achieved should be lowered, which does not solve the problem—you do not achieve it because you are out anyway. But the presenter was putting, I think, that they needed to show that they are serious, stand up and have a go and if they are successful then they come in. Perhaps we could extend your proposal to provide some small funding to new political entities. I know that opens a can of worms as far as the cap is concerned because we could end up with a 1999 electoral ballot sheet again with people managing to get their 500 if they know they will get \$10,000, \$20,000, \$30,000, \$40,000, \$50,000 for an election campaign. Is your only objection to no private donations, including individual donations, that they would limit the growth of democracy?

**Ms LEE RHIANNON:** There are certainly people who argue it is part of the democratic process of individual's rights to be able to give the money. For me personally the issue of the startup is a big one. I am not ruling out what you say. I would certainly consider it because there are many people grappling with the complexity of this. One other proposal that I have heard in terms of these emerging parties, and I think this could link up with the point you are making, is that funding could be provided prior to the election on the basis of how they polling. I cannot remember where I have heard or read that proposition and I must admit I have not got it at my fingertips at the moment. That could also be a way of gauging their level of support. We know that these funding regimes can be abused. We have seen that played out in a very bad way with Pauline Hanson. I am aware that at a Federal level they are trying to grapple with how to stop that. I think we have learnt a lot in recent years. While we have considerable differences in this room in terms of policy, I would acknowledge that I think there is a commitment to the democratic process and what we are now trying to work out is how we learn from those mistakes, close loopholes and get a good system in place. We are open to talking about all that.

**The Hon. ROBERT BROWN:** If it cost taxpayers \$12.8 million to publicly fund the State election every four years, do you believe that is a reasonable amount, too much or way too little?

**Ms LEE RHIANNON:** We think it is a reasonable amount. You also mentioned the figure of \$10 million—

**The Hon. ROBERT BROWN:** Roughly.

**Ms LEE RHIANNON:** —which was based on the figures that we put forward. I think the \$12.8 million is reasonable. Remember that the figure of \$10 million is based on funding for elections. We also put forward that we need to be considering money to run our parties. We have not done costings on this. Some of us get the Political Education Fund money. We have said that we think that

should be broadened out. So something around \$13 million I do not think is a huge imposition. If you marry that with some free-to-air time, we are starting to get a good election system which would be much fairer for all the political parties running.

Also I think it would be easier for the public to make a judgement because they would be actually hearing policy debates rather than the election spin that dominates. Let us remember that the main way all those millions of dollars of donations are spent is on excessive advertising.

**CHAIR:** You have not mentioned the issue of the four per cent threshold to help emerging parties. Would it be better if that was reduced to, say, two per cent?

**Ms LEE RHIANNON:** We have advocated four per cent. I am aware that there was evidence this morning of two per cent for the upper House and four per cent for the lower House. We would obviously be interested in the arguments that could be put to justify that. At the moment we think four per cent is reasonable and that is coming from a party that for many years was a two per cent party. We took our time to get there! So we are not saying it out of selfish motive; we are really trying to come to grips with this whole issue of how to ensure that emerging parties can come forward. We still need a threshold and at the moment we think four per cent is pretty fair.

**CHAIR:** What are the arguments for four per cent?

**Ms LEE RHIANNON:** The arguments for four per cent are really just in terms of numbers, Mr Chair. Five per cent is one in 20 people who support a party and I think it is fair enough that they should have a voice in Parliament. It is starting to be similar to our quota in the upper House. Obviously some thought was put into how the quota is divided up. It is hard to put it into words, but I think four per cent is fair enough.

**The Hon. JENNIFER GARDINER:** I am interested in the idea of gauging support by polling. Who might do the polling and how would they be funded?

**Dr THOMPSON:** It is a real problem. We certainly would want an independent and very reputable group doing the polling if we use polling as the source of public funding.

**The Hon. JENNIFER GARDINER:** Secondly, a general question: as you know and as you have said, things have moved rather quickly on this topic in the last few weeks. Senator Faulkner made some announcements on Friday and he has a staged program. First, there will be short-term measures to reduce the federal threshold, ban overseas donations, deal with the Pauline Hanson rip-off, remove the loophole in relation to separate divisions of parties being separate entities, and have six-monthly reporting. Then he is going to produce a green paper, which has a timeline of about July this year, which will then go to the Joint Standing Committee on Electoral Matters of the Federal Parliament. Do you think that national review has implications for our inquiry? Should we consider whether there are certain things we could recommend be done immediately or in the short term? Maybe there are other things that need to mesh with federal reforms.

**Dr THOMPSON:** I think this inquiry comes at a very good time with so much change. I am sorry, maybe it is my age, but I am having a little trouble hearing everything you said. Correct me if I do not answer your question. You are in a good position to have major input into what happens federally and I hope that your report will be such that it can be used for federal reform as well.

**The Hon. DON HARWIN:** I think Jenny was also getting at the issue of whether there was anything we should be recommending in terms of an interim report. For example, some issues we might judge to be right or wrong or too difficult to move on until we know what is going to be done nationally. Are there some things that we should be doing immediately; for example, things that might be put in place before the local government election, although Jenny did not say that?

**Dr THOMPSON:** I would certainly like to see reform before the local government elections and I think that would be very positive.

**Ms LEE RHIANNON:** By reform we mean the legislation coming in to ban donations from corporations and other organisations.

**Dr THOMPSON:** And caps on expenditure.

**Ms LEE RHIANNON:** And caps on expenditure as well. Our real concern is that when Premier Morris Iemma made his statement—and it was on the front page of the *Sydney Morning Herald*—it really gave people a lot of hope. There is extraordinary cynicism about the democratic process. I spend much of my time doing community meetings in regional and rural areas. A lot of damage has been done to the democratic process, which impacts on all of us. I think that statement gave people a little hope. Some were immediately extremely cynical, trying to work out what the real game plan was, but if nothing comes of that and if this inquiry says it will see what happens with the national inquiry, I think it will add to the cynicism. I hope that the inquiry's recommendations will come forward and give a real lead. As the biggest State in Australia, that can be really effective in terms of what is happening at a national level. We believe such a ban plus the caps on expenditure can be effective in New South Wales. It would need to be linked with a ban on intra-party donations so that the money does not come from federal bodies and other parties, because in some other States parties are well cashed up with assets. That needs to be worked out, but we do think it is achievable for New South Wales to give a lead, not just in words but in legislation, and to get it in place before the local government elections.

**The Hon. AMANDA FAZIO:** Can I ask for your comments on a proposal I think you would have heard this morning from one of the people we took evidence from via phone conference, which was to still allow organisations and individuals to donate to the political process but to do so by way of a political donation fund that would then be fed into the public funding system. It would be an adjunct to full public funding and the fund would be controlled by the State Electoral Office or the Election Funding Authority. People who felt their civic duty required them to make a donation or organisations that felt they wanted to help support our parliamentary democracy could make a donation to that fund. That would then supplement government funds for public funding. What are your views on that?

**Dr THOMPSON:** That was Dr Longstaff. I heard only part of his evidence. I have heard this proposal floated before. I am not sure I am as optimistic that corporations and property developers would be rushing to put hundreds of thousands of dollars into such a fund. If companies and other organisations are willing to do that I think that is fine as long as it is totally independent and it does not have any impact on access to politicians.

**Ms LEE RHIANNON:** I also wonder whether it would need to be anonymous—that they just give the money and do not get any brownie points for it, so it is not something that goes in their annual report saying "We are smash hot corporate citizens. We gave all this money." I think that is something we would consider may be required.

**CHAIR:** Just to clarify—I think the answer is fairly obvious—you keep talking about donations from corporations. Would you also include unions?

**Ms LEE RHIANNON:** I think if you look at the transcript, Mr Chair, you will see that the terminology we are using is "corporations and other organisations". The other organisations include everything from lobby groups to unions to special interest groups and whatever. It needs to be very broad because there is certainly overseas experience, mainly in the United States, of strict limits having been put in place but then a range of organisations being set up specifically—this goes to the third party issue—to become the big players in the election. We have always been clear about corporations and other organisations.

**CHAIR:** And unions.

**Ms LEE RHIANNON:** "Other organisations" includes unions.

**CHAIR:** Just to make sure that is included.

**The Hon. MICHAEL VEITCH:** We spoke about donations and obviously you would include political loans. That has been raised a few times recently. Would you include that as part of the donation process?

**Ms LEE RHIANNON:** Yes. They are often called "loan donations". We think that they would need to come under the same requirements as donations. We really need to ensure that is included in the system because you could well have a process where a party takes out a big loan during an election and then is not able to pay it. That becomes a donation, so we clearly need to have that covered.

**Dr THOMPSON:** And it should be declared before the election so people are aware of it.

**The Hon. MICHAEL VEITCH:** I was just going to ask about disclosure. My next question relates to merchandising. There are gifts, in-kind donations and loans. Another area that has been raised a couple of times is merchandising. You can get something done very cheaply and then super-inflate the price at which people purchase it. A person can buy a truckload of diaries, for instance, and may not use them but in some way they have made a contribution to a political party.

**Ms LEE RHIANNON:** That is a really good point. I must admit I have not thought about that. We find just about every day there is a further complication to this issue. You can also have the problem that arises with fundraising dinners where people often spend \$1,000. I cannot think of any meal that is going to be worth \$1,000. Clearly it is the same with merchandising. If you buy a key holder with a party insignia for a few hundred dollars, obviously you are making a donation. I think you have made a good point and we will try to work out what we think should happen there.

**The Hon. MICHAEL VEITCH:** Mind you, highly successful T-shirts are okay!

**Ms LEE RHIANNON:** I think our T-shirt seller, Mr Col Charlton, does not get above \$20!

**CHAIR:** Perhaps a system of accountability where you pay only for the cost of the dinner?

**Ms LEE RHIANNON:** Yes.

**CHAIR:** Is there anything you would like to add? Are there any points you think it is essential we recommend from the Greens party's point of view?

**Dr THOMPSON:** I think we have covered most of the areas. There is one thing I had hoped to cover but I realised my presentation was going on too long. I know the Federal Government is considering, or probably will do away with, income tax refunds for donations. I am opposed to that. I think it is important people get some sort of tax relief when they make donations even of a small amount. Canada has a somewhat different system—I am not a tax lawyer so I recommend you look at the Elections Canada website—under which it gives tax credits so it does not advantage wealthy people as opposed to poorer people. I think that that would be a very good step for us to take. I know it is not something that a State can do, but perhaps you can make the recommendation that we have tax credits for people who give donations.

**CHAIR:** Thank you very much for appearing before our inquiry. We appreciate the Greens' contribution. As you said, when you were writing your submission you thought you were making an ambit claim and suddenly you were left behind.

**Ms LEE RHIANNON:** Yes. Thank you.

**Dr THOMPSON:** Thank you.

**(Luncheon adjournment)**

**CHAIR:** The committee welcomes the two witnesses now appearing before the inquiry. I thank the Leader of the Opposition, Barry O'Farrell, and the interim State director of the Liberal Party in Australia, New South Wales Division, Mr Martin Laverty, for appearing. Mr O'Farrell, as you know, there is no need for you to be sworn in as you have already sworn an oath of office as a member of Parliament. However, all other witnesses are required to be sworn in.

**BARRY ROBERT O'FARRELL, MP,** Leader of the Opposition, 27 Redleaf Avenue, Wahroonga 2076, before the committee:

**MARTIN JOHN LAVERTY,** Interim State Director, Liberal Party of Australia (New South Wales Division), Level 9, 140 William Street, East Sydney, 2010, sworn and examined:

**CHAIR:** Do either of you wish to make an opening statement?

**Mr BARRY O'FARRELL:** A brief statement, if you will allow me, Mr Chairman.

**CHAIR:** Yes, thank you.

**Mr BARRY O'FARRELL:** I welcome this inquiry. It is long overdue and its work is important. I have three regrets. I regret that it is not a committee comprised of both Houses, which would allow members of the lower House who have similar and perhaps broader and more direct skills in the area to contribute to the committee; I have a regret about the absence of the Greens, who have been one of those groups lobbying for reform in this area for some time; I have regrets, Mr Chairman, related to my first regret, which is that if my motion of 10 May 2007 in the lower House to establish a select committee to address this area had been carried, neither of my first and second regrets would have arisen.

My submission speaks for itself. Clearly, we have moved on since then. I just want to reiterate what is there: firstly, donations should be restricted to Australian citizens or corporations, which of course is something that has to be effected at a Federal level; secondly, spending limits or caps should be imposed; thirdly, if you are going to have a system of spending limits and caps it is important—and I believe it is important in any case—for there to be a system to control the amount of government or taxpayer funded advertising. I put forward the proposal that we have repeatedly suggested along the lines of the Auditor-General overlooking that. Fourthly, we make the point that there is a range of allowances provided to members of Parliament which provide an advantage to incumbency. Clearly there would need to be a change in that area if you are going to have a system that in any way involves expenditure caps or limits. Fifthly, I would argue wherever possible, particularly in relation to reporting requirements, that there should be a degree of uniformity, or as much uniformity is possible between State and Federal jurisdictions.

I have long argued that the 1981 introduction of public funding disclosure laws in this State did not await national action. I do not believe that our reforms to a system that has been operating for 27 years need to be further delayed by awaiting national action. There is an opportunity here to rebalance the political system, to ensure that both the perception and the reality is that people and not vested interests are at the centre of that system. I think that would be welcomed by all those who sent us here to represent them. In relation to the development that occurred on Easter Saturday—when the Premier had, in my terms, a road-to-Wollongong conversion on this issue—my party and I are broadly supportive of that direction, provided we are assured that it is an all-encompassing system. I note the Premier's comments on that day were simply a commitment to have the matter "considered". I note from the supplementary submission presented by the General Secretary of the Labor Party that there is one sentence expressing a view about banning donations and having public funding, and no other detail is provided.

I suppose I should also note that on Easter Saturday the Premier indicated to the media that he had instructed the general secretary to consult with other parties on the issue. For the record I note that, 10 days on, there has been no approach to the Liberal Party on any specifics or any proposal, or any consultation. Thank you.

**CHAIR:** Do you have any comments or statements, Mr Laverty?

**Mr LAVERTY:** I thank you, Chair, no—other than to note that the New South Wales Division of the Liberal Party has given evidence in other forums on the current complications that exist in accounting for and reporting on election income and expenditure, and that we support the work that this inquiry has under way in both simplifying that process and the administrative concerns, but more importantly in providing a greater level of public transparency. That greater level of public transparency is something that the Liberal Party, as a division and as a political party, is very happy to put forward to this inquiry.

We have noted that there have been public comments from the Premier indicating a desire to consult with other political parties in relation to the proposal to ban political contributions. We have not yet seen any detail as to what those proposals are. We would welcome the opportunity to understand the proposal and indeed provide observations. I foreshadow, Chairman, that at the moment, in the absence of detail as to what is proposed, any discussion we might have today about those specific proposals may not be as well informed as they otherwise would have been if that contact had been made in recent days.

**CHAIR:** As you have both stated, the Premier made his announcement that appears to be advocating a ban on all private donations in favour of a system of public funding. Does the Liberal Party support that proposition in principle?

**Mr BARRY O'FARRELL:** Yes. I indicated on Easter Saturday, Mr Chairman, that we did support it in principle, but we wanted to ensure that it also encompassed third party expenditure. I made the point earlier this year, and I made the point in May last year when advocating reform in this area, that if you are going to introduce expenditure limits, those limits must apply equally to candidates, parties and third parties. If you have a system that seeks to ban the political side, if you like, and leaves third parties alone, the system is perhaps open to even greater abuse than even is the community's perception currently.

**CHAIR:** Would a blanket ban be enforceable? Are there ways that donors could get around the bans?

**Mr BARRY O'FARRELL:** I regret, Reverend Nile, that clearly human nature means that we are sinners. The reality is that the Federal tax Act is a terrific example of what should be a very simple thesis—that everyone should make a fair contribution to the taxman—yet people increasingly are trying to find ways around it. I notice that the General Secretary of the Labor Party says that no system is perfect, but we should though seek perfection, we should seek to set the standard high, we should seek to impose constraints upon ourselves, and we should seek to try to restore some faith in the political process in this State.

My concern about this whole issue, Mr Chairman, and the reason that last May I sought to the establishment of a select committee to inquire into this matter, and the reason that the Liberal Party was very keen to cooperate to have an upper House inquiry is because of the damage being done to the body politic by what is seen as a culture of connections between donations and decisions in this State. I think it has undermined government decision making, it has undermined public confidence in our political process, and we would fail to fix it at our own peril.

**CHAIR:** Following up the Premier's remarks about relying only on public funding, if public funding was to meet the cost of elections it would mean a dramatic increase in public funding. Would you feel that the public would support that increase?

**Mr BARRY O'FARRELL:** I think the public is in a difficult position. The public want reform. They want changes. The proposal the Premier has put forward is one that only the Premier has the ability to deliver because ultimately the Labor Party has the numbers in the lower House. It is one that is arguing for a ban on all donations and one that is arguing that the slack be taken up, if you like, by public funding. I note that when I referred earlier this year to expenditure limits I referred to the United Kingdom and New Zealand examples. The Canadian example has since come into play. Of course, in Canada, a system that many have pointed to—including the Premier if I remember one of



his interviews—there are still donations available through corporations and individuals of up to \$1,100 per year. As I understand it or as I remember, those amounts are indexed on an annual basis.

**The Hon. DON HARWIN:** What are some of the issues which you see in the Premier's announcement that would need to be fleshed out more before you could have that level of confidence about the proposal that has been floated?

**Mr BARRY O'FARRELL:** I note that in a submission from the General Secretary of the Labor Party a ban is advocated on something called "private donations to political parties". I have to say, after many years practising the art of politics, that is the first time I have heard the word "private" inserted before "donations". So I am not quite sure what the qualification "private" means—trade union affiliation fees to the Labor Party private donations? The Labor Party might well ask whether we have any employer groups associated to the Liberal Party, which does not happen in this country but happens in the United Kingdom, and would they be considered private donations. Is income based on dividends from investment vehicles going to be considered to be private donations? That is certainly an issue for the Labor Party which, as I understand it, relies on a company called Labor Holdings for some contributions.

What restrictions are to be imposed on intra-party transfer of funds between State branches and divisions? Would they or would they not be classed as private donations? Would there be any limits on the amount a member could give their own party? Would they be classified as private donations? Of course, that latter issue goes to the way in which a government might operate. We have seen over the last 13 years an explosion or an increase in the number of paid committee positions in the New South Wales Parliament. One of the rorts, if indeed the distinction of a private donation is meant to provide room for manoeuvring, could be that a government simply establishes more committees and more paid chairman, and then puts a levy on those chairmen to pay donations to the party. I am not suggesting that is happening, but I am curious about this qualification of "private" donation.

Equally in relation to a system of full public funding, which is the quote used by Mr Bitar, does that mean all campaign expenditure is to be paid for via public funding through reimbursement? Are we saying "all"? As I understand the Canadian model, it is 60 per cent, which has gone up from 50 per cent, which has gone up from 22.5 per cent, which goes back to your issue, Mr Chairman—how much is the taxpayer expected to bear?

I suppose in relation to the system of full public funding we also have that issue of spending money donated by members and affiliates but we have also got the issue of cashed up third parties who might wish to undertake a campaign expenditure on behalf of one or another side of politics. I say again that what is termed a "supplementary submission" from the Labor Party, what was presented as a supplementary submission by Mr Iemma Saturday a week ago, is essentially one statement, and then many paragraphs of description of history, with no fleshing out of a model and no evidence of any attempt to consult other political parties in advance of these hearings today about what that model might be.

**CHAIR:** I suppose to save a blow out in public funding there should be consideration of a limit on expenditure both for a party at the State level or for candidates. What are your views?

**Mr BARRY O'FARRELL:** I support, advocate and argue for expenditure limits. Unlike my opponents I believe that those limits could be workable and I certainly believe they can be workable if there is good will from the political parties to ensure they work. I go back to the issue of trying to raise standards. We do need to raise standards. We do need to restore some confidence in ourselves. I believe, just as they work in other jurisdictions, including New Zealand, the United Kingdom and Canada, expenditure limits can ensure that there is a return to some degree of sanity in politics. We saw expenditure in the order of \$17 million by one party in the last State election campaign.

With all due respect, I do not believe that that expenditure was about raising standards, was about increasing the amount of information that members of the public had in determining the outcome of that election campaign. I do not believe it should take almost \$17 million from one side of politics to win a campaign. Frankly, the sooner we get back to debating issues and to debates in policy forums between the parties, as opposed to the carpet bombing of negative advertisements against each

other, the better we will start to address community concerns about the state of politics and attempt to raise the standards I am arguing.

**CHAIR:** Would you suggest what some of those limits might be?

**Mr BARRY O'FARRELL:** I did a number of months ago. I argued that the limits in relation to candidates could be \$30,000 per candidate per electorate, that the limit on statewide political parties who have extra costs because, of course, they are running across the entire State, could be \$1.5 million. I was rather generous, I have to say, in relation to third parties because I had followed last year the debate in New Zealand about third parties where this issue of infringing upon the rights of free speech had again been raised. It was coincidental when I finally did my sums on the basis of those limits that I think from memory the Labor Party could have spent in the last election around \$4.3 million which is roughly the equivalent of about \$1 per voter in New South Wales. So I then thought that was interesting that it had worked out like that. That is \$4.3 million compared to the \$16.7 million it actually spent. That seems to me to be a more reasonable amount.

But I also argued in my submission, and I believe and I saw that the Democratic Audit of Australia who was here also made this point, that there can be a role for outsiders in terms of setting some electoral law and electoral finance law. I believe, for instance, that it is not beyond the ability of the Auditor-General, after seeking public submissions, to assist the Parliament in either reviewing or in setting campaign limits that might be imposed upon our expenditures. I make the point again when I talk about expenditure limits, I refer to a system that includes third parties. To leave out third parties would make the system unworkable.

**CHAIR:** Do you see the Auditor-General playing a bigger role in evaluating whether some government advertising is, in fact, election advertising?

**Mr BARRY O'FARRELL:** I do indeed. I note that the model proposed by Kevin Rudd prior to the Federal election campaign was based on that situation. It has been a model pursued by us for a number of years. I think I am right in saying, without being unkind to the Prime Minister, that we have not yet seen that legislation introduced or implemented in Canberra. If you are going to have expenditure limits, and even if you are not, but if you are going to have a system of public funding, it would be unconscionable for the government party or parties, whoever they are, to also have the added benefit of additional taxpayer funds in order to unbalance the system.

The Auditor-General reported after the last State election campaign that spending on government advertising had increased 20 per cent more than any period before any previous State election campaign. I think that is the danger that exists not only the longer you are in government, but when you are in government full stop in terms of using public resources to get yourself elected. Equally, it should also go to some of those allowances provided to lower House members—electorate mail-out allowances and others—which can also provide an unfair balance.

**The Hon. ROBERT BROWN:** A number of witnesses have raised the issue of equity in relation to the distribution of public funds. Before I go to that question, in the last State election about \$36 million was spent and about \$12.8 million of public funds contributed to that—roughly one-third. I guess we are a bit but not that far away from 60 per cent or 50 per cent public funding.

**Mr BARRY O'FARRELL:** On top of that, of course, there is the \$40 million cost of conducting the election.

**The Hon. ROBERT BROWN:** That is correct but that will be there.

**Mr BARRY O'FARRELL:** Just as long as taxpayers understand that.

**The Hon. ROBERT BROWN:** What is your view on the method used to determine who shall receive public funding as it currently stands, that is, at least 4 per cent of first preference votes or be elected?

**Mr BARRY O'FARRELL:** I notice, Mr Brown, that in Canada in order to get the annual funding that is provided under its public funding model, you have to have received 2 per cent of the

vote nationally or 5 per cent of the vote if you are just contesting a number of districts. In order to get reimbursement for election expenses you have to meet the higher threshold of 10 per cent, and you can correct me here, but when I read this a while ago I have a feeling that that threshold had recently been lowered, or lowered in 2004. So there are a number of thresholds that can be used. I think the current arrangements at a State level—absent the discussion we are currently having—are reasonable, but I am happy to ask the State Director of the party who has an organisational perspective on that as to whether he has any view.

**Mr LAVERTY:** Other than that we recognise the issues that you are seeking to pursue are very reasonable, democracy being what it is, we should not be setting a system that excludes anyone from participation in it. But certainly the establishment of a threshold that ensures that a party or a candidate has achieved an outcome that is legitimate so that we do not have, as we have seen in other States, the accusation that some candidates are actually in it for other purposes, other than getting elected.

**The Hon. ROBERT BROWN:** Is great that I have one of my hobbyhorse questions. In relation to the political education fund, Mr O'Farrell what is your opinion of the eligibility requirements for, and the equity of distribution from, the political education fund? Is the fund achieving its objective of a more politically informed electorate?

**Mr BARRY O'FARRELL:** Mr Brown, I will ask the State Director to start on both of those and I am happy to come back to the second one. I have not looked at the political education fund in any detail probably for 14 years.

**Mr LAVERTY:** The PEF arrangements at the moment are shared across a number of different political parties so that each has a connection with a different group within the community. From our perspective at the moment we take those obligations seriously and fulfil our obligations under public education funding to ensure that we are meeting their purposes. In our submission you will note we have made no specific proposals to amend the current PEF arrangements. However, we should note that since lodging the submission with this inquiry that other proposals have been put on the table and that in a changed environment it is proper, I think, to reconsider all of these issues. Very specifically I made the point when I started out to say that the Premier had indicated an intention that there be consultation between political parties. Perhaps it would have been useful in giving evidence today if that consultation had occurred so that I might be able to give a more informed answer.

**The Hon. ROBERT BROWN:** If I may ask a more pointed question, the current funding arrangements are that you must have candidates in the upper House but the distribution, once you achieve eligibility, is related to the number of Legislative Assembly votes that you pull in. Of course, at this point in time a party like my party does not have any lower House candidates. One could argue that it is democratically represented—it has two people in a State Parliament. Do you believe some measure of equity should be applied?

**Mr LAVERTY:** I would certainly look forward to engaging in discussion around that issue.

**Mr BARRY O'FARRELL:** But I do note that the Canadian model seems to provide you with some degree of equity. Has the political education fund produced a more politically informed electorate? My answer to that is that if Labor had to spend \$16.7 million to get itself elected last time, the fact that they might have won suggests not.

**The Hon. ROBERT BROWN:** Putting politics aside, the committee asked a previous witness whether his organisation had done research or whether it had any anecdotal evidence to suggest what level of sophistication existed in regard to the pure political process. Do you feel that voters in New South Wales are generally well informed or have no idea at all?

**Mr BARRY O'FARRELL:** I think voters have increasingly become better informed and I pay credit to changes in the curricula at both State and national levels for that. I have been thirteen years in State Parliament talking to many school groups that come through here, talking to many schools in my electorate and elsewhere and there is a greater level of knowledge by young people about our political processes. I am not saying they are engaged enough to actively participate but they are certainly aware of the system. The proviso I add is that whenever we have a Federal and State

election within close proximity of each other I have always had discussions with older voters who ask me how long have we had optional preferential voting in the lower House and how long have we had this system of voting in the upper House. When I explain to them how long those systems have been there they always argue with me that, no, it has been changed in the last six months.

I know there have been some changes to the upper House but the fact that optional preferential voting has been around since 1978. I think the last time we had close proximity when the State election followed the Federal election – 1999 – I can remember I had a reasonable discussion with a woman at Town Hall polling place who told me that was the first time that system had ever been used. So young people, thanks to the education system, I think have been better informed and I think it is permeating across the electorate. It is confusing of course. If we are talking about regularising systems of political donations and disclosure laws, perhaps regularising systems of voting might also help, and I put my hand up for a full preferential system, according to the Commonwealth.

**The Hon. MICHAEL VEITCH:** Mr Laverty in relation to the administration of the current system and any future system, does the Liberal Party have any issues around accounting under the current system? Could you elucidate?

**Mr LAVERTY:** The first issue is the requirement to report every four years. If you make a comparison to what is reasonable in the private sector clearly a four-year reporting period is now well and truly out of date, not just because it is cumbersome to what are, in essence, voluntary organisations—it should always be remembered that political parties at their core are representatives, or groups rather, of people who are volunteers. So in asking volunteers to remember to do something every four years is a complicated process. Our first observation is that reporting should at the very least be annual. I note a proposal announced by the Federal Government recently will see six monthly reporting to the Australian Electoral Commission.

Again the second administrative issue that I point to is that a political party in New South Wales, certainly from the point of view of the Liberal Party, is also a participant in the federal arena and that consistency in reporting between the two will make logistical sense, particularly as we turn to how we might be funding political parties to participate in elections. There is an administrative cost to report at a State EFA level every four years at present and then at an AEC level annually, and now if we are going to move to six monthly periods. I am happy to say that reporting at the very least should be on an annual basis. We would actually favour even greater transparency. Again this is something that we do not yet have detail when it speaks to the proposed banning of political contributions because that obviously has an impact on reporting. I am making an observation around the current system but when we move to a new system those comments could be entirely redundant.

**Mr BARRY O'FARRELL:** I add that aspirationally I believe that with technology at the level it is, we could and should have quarterly reporting but hand-in-hand with that should also go electronic lodgement of details. The other issue that I would encourage this committee to have a look at—and I know that you do have the Election Funding Authority as one of your heads—is that it is a nonsense that certain information about donors to State candidates and political parties is available via the website but that in this day and age to get access to other fuller information, you have to make an appointment, which cannot be that day, then wander down the road and sit there. That just offends every principle of transparency that any true democratic and open and fair political system has.

**Mr LAVERTY:** We should note that these comments that both Mr O'Farrell and I am making are consistent with the evidence given by the Election Funding Authority to this inquiry who themselves concede there should be more regular reporting and that greater use of technology from their perspective enables parties like ours to provide that in a more transparent and meaningful manner.

**The Hon. MICHAEL VEITCH:** If we move to half yearly or even quarterly disclosure, we have received on a number of occasions here now the comment that those returns should be certified by an auditor quarterly. Do you have any views about that?

**Mr LAVERTY:** We, in providing our return on behalf of the Liberal Party of New South Wales for the period April 2003 to April 2007, had our return audited by KPMG. We think that is appropriate. In a manner that a BAS statement can be lodged on a monthly or a quarterly basis, it is

not required to be certified by an auditor when it is lodged but a company on an annual basis if reporting to the Stock Exchange or to the Australian Securities Investment Commission then has to provide an audited statement in certain circumstances, so again comparisons that I draw are that on an annual basis I think it is quite reasonable to say that there be an audited assessment of at least an Election Funding Authority return, just as we have provided in the past and also we provide with our public education funding returns, so that on an annual basis it is reasonable in reporting to the EFA that there be an audited statement to at least account for those returns that have been lodged in the previous 12 months.

**The Hon. MICHAEL VEITCH:** So if I take that to the next level because there have also been suggestions that we should be consistent in our approach with local government, how do you see those rigorous disclosure arrangements affecting local government candidates, not just party political ones but Independent local government candidates?

**Mr LAVERTY:** I think perhaps at the local government level, the level of government said to be the closest to the people, its level of transparency is even more important. I note that the Independent Commission Against Corruption, in evidence it has given via its submission to this inquiry, has made a number of recommendations that should be considered; for example, the planning Minister, in dealing with applications that might be referred by council to him or her at the time, that a level of disclosure accompany any decision made in relation to those planning decisions so that if there were a donor to the political party to which the planning Minister belonged, that he or she acknowledge and deal with and respond to that perceived conflict of interest in making that particular decision.

An example is that there should be an application of these types of matters that we are discussing applicable to local government and the ICAC has made some other recommendations to that end. So if there is a summary as to how we should treat local, State and Federal government, there should indeed be a consistency, just as Mr O'Farrell recommends, for voting procedures at a State and Federal level, that we have a similar approach in dealing with local, State and Federal governments when it comes to accounting for political donations.

**Mr BARRY O'FARRELL:** Can I just add one issue there? I would have thought that at a practical level if local government councillors or candidates are members of political parties they would be picked up. If they are not, I do not think, from my own experience, that they go through the four-year cycle of fundraising that party candidates do. I do not know what organisations like the Friends of North Sydney Independents or the Friends of Manly Independents do. They are clearly political bodies. Maybe they operate like quasi-political bodies when it comes to fundraising. Clearly they would have to submit returns but I do not think it is an onerous requirement upon local councillors, in particular given that I think in some areas local councillors have greater constraints on them currently in terms of disclosure, although I note, as I have noted a couple of times in the lower House that only in local council can you run for a mayoralty, have a fundraiser a month before your election and be deemed not to have to declare who attended that fundraiser because you said you did not get the money before the election campaign and that disclosure will not have to be made for four years. That is clearly a failure within the system and I commend my speech after the last local government election in the lower House to the committee secretariat to have a look at that particular issue.

**CHAIR:** Do you see any argument for public funding for local government elections to make the whole thing consistent and to avoid corruption?

**Mr BARRY O'FARRELL:** If you start down this path, that is a logical extension of it. You cannot say that what is good at a State government level in order to avoid corruption and the perception of wrongdoing at a State level should not also be applied to local councils. When you consider that local councillors can have greater executive power than almost half of the Parliament, there is a need for it. In other words, as a member of the lower House and Opposition for the last 13 years, other than those matters that come through the House that are agreed, which sometimes happens, I am not able to exert any executive influence and have not been able to exert any executive influence. But as a member of a 9-person, 10-person or 12-person council my vote might well determine a development application that could deliver a windfall profit to someone for which they might be grateful and for which they might seek to make a donation.

I think the ICAC has identified that there are corruption risks at both levels of government. I have my views about how rigorously ICAC approaches them at a State Government level but ICAC itself has identified significant risks in the development process with local government and has made recommendations along those lines and if you heed those recommendations and heed their concerns, you would have to argue that whatever we are about to do at a State level should be replicated at local council level.

**CHAIR:** Have you given any thought to what the amount would be in comparison to the State level of \$2+. I think someone recommended 50¢ per vote for local government?

**Mr BARRY O'FARRELL:** I have not given any thought at all to limits in local councils. I try to spend most of my waking moments thinking about State seats.

**The Hon. AMANDA FAZIO:** Can I just ask you some questions in relation to issues that were raised on our first day of hearings? There has been a call for developer donations to be notified at the time that a development application is lodged by that person or organisation. It has been put to us that it is very unfair to consider only the proponents for a development and not the opponents to a development who equally lobby local councillors because they might have some financial gain by protecting their business interests in a local area or by protecting their property values in a local area. What is your view on that issue?

**Mr BARRY O'FARRELL:** Can I move it from the local to State in a moment but my knowledge of local council activity along those lines is that one of the advantages that local council offers is that their files are by and large open so it is not very hard for anyone to see who has lobbied which way in relation to a particular development. That does not always apply at a State level, but can I take it to the State level because that is the level that concerns me and I have most involvement with.

I simply go back to ICAC's report last September when it looked and made recommendations in relation to the State planning Minister and the determination of development applications by him from donors to his political party, or her political party if the ministry changes. ICAC's recommendation was that the donations be declared and that there be an automatic arm's length process put in place to avoid both the perception of a conflict of interest and avoid the corruption risks that could be involved.

**The Hon. AMANDA FAZIO:** So in relation to the Liberal Party's recent large fundraising event at which Nick Greiner was the main speaker, you would say that people who were donating \$10,000 to buy a table at that who were development proponents, at some future time if there should be a Coalition Government in New South Wales you would see that the same standards would need to apply to them as well?

**Mr BARRY O'FARRELL:** Absolutely. Can I just say again about what regrettably a great newspaper in this State described as a developer dinner, there were less than a handful of tables from the property sector in a room of more than 70 tables and the reality is that most of the people who attended that function were Liberal Party members and their supporters. I would go further: You have seen yesterday some comments I made about the Independent Commission Against Corruption. I held back on one of my comments, Mr Chairman, because of statements that the Premier made Easter Saturday, statements that I hope you will act upon. I would go further under a future Coalition Government, that if a system of donations still exists then I would specifically legislate for the ICAC and resource the ICAC to keep a watching brief on the issue of donations relating to decisions. I do not believe that there should be any question in the public's mind, under any government, that donations are buying decisions and I think we should be using the State's anti-corruption watchdog expressly to provide the reassurance to the public that they deserve.

**CHAIR:** That raises another issue, that is, the effectiveness of the Election Funding Authority. What are your views on that, considering they have no investigation unit or arm?

**Mr LAVERTY:** The first observation we would make, if you might indulge me for a few moments, is that our dealings with the staff and personnel at the EFA have always been most professional and as a group of people they do the best they can within a difficult situation. The

difficulty is twofold. The first is the legislation under which they operate. The commissioner in his submission to this inquiry has made some observations around the challenges with that legislation. That is in part the reason we are here. That legislation needs to change.

The second is that they have indicated, and I have observed, an obvious staffing and resourcing challenge that impacts their ability to actually do their job. I do not necessarily suggest that addressing the resourcing of the EFA is the answer to that but, rather, a simplifying of the legislation and a greater degree of transparency about when reporting occurs and indeed how it occurs can take away a lot of that problem.

We, at the moment, are required to provide every four years reports on our revenues and reports on our expenditure for the four-year period. Mr Chairman, it might surprise you to learn that means we physically deliver hundreds of pages of documents that the EFA are then required to wade through over a period of time. They are then made public in a summary fashion but if you want to read them in detail, as Mr O'Farrell has said, you need to make an appointment and present at the commission some days later at which time a commission officer sits besides you and you wander through the paperwork.

That is not necessary in 2008 in a period where you can lodge a BAS statement and other financial disclosures to other bodies electronically and on a more regular basis. I suggest that the greater use of new technologies and new processes is going to address many of their issues but at its core the legislation does not do the job that it was designed to do.

**The Hon. AMANDA FAZIO:** Mr Lavery, can I just ask you another question that relates to the Election Funding Authority. Before lunch we were given a document by the Greens, which listed what they claimed were a range of donors to both the Labor Party and the Liberal Party. For the Liberal Party it was five donors and the total donations amounts were \$405,000. These donations were declared to the Australian Electoral Commission but not to the New South Wales Election Funding Authority. I wanted your comments on that matter in terms of do you have difficulties with donors to the New South Wales Division of the Liberal Party giving you a donation that they think is earmarked for a Federal campaign and that they do their donor return to the AEC, not being aware that it also has to be declared at the New South Wales level and then not doing their donor return to the Election Funding Authority.

**Mr LAVERTY:** I have already made some observations and I think there could be a greater consistency between Federal and State reporting requirements. Certainly, and without having knowledge of the specifics that you refer to, it is very much the case that donors to all political parties, not just the Liberal Party as far as I am aware, have different interpretations of their reporting requirements to the AEC and to the EFA. Indeed I am aware of different legal opinions as to what is required to be reported federally.

The specifics I am referring to are that a donor may have made a political contribution to a political party that might be based in New South Wales, but the donation was intended to support a Federal election, in circumstances where I am aware of different legal opinions that say that the political contribution does not need to be declared at the New South Wales EFA. The New South Wales Liberal Party division has taken the approach in lodging our own return with the EFA for the period April 2003 to April 2007 that any revenues or any receipts we have received as a political party in New South Wales, regardless of the purpose—be it for a local government campaign, a State campaign or a Federal campaign—because they have been received by us as a registered political party in New South Wales, they are required to be reported to the New South Wales Election Funding Authority. That has been not the practice of all political parties in recent years in dealing with the EFA and again it is because of the clumsy definitions that exist under the Act and that there could be clarity brought to what constitutes a political contribution quite specifically, and the challenges that exist and different legal opinions that exist as to whether or not revenue or receipts reported for a Federal purpose need in fact also to be reported by a party and a third party at a State level.

**The Hon. JENNIFER GARDINER:** Mr O'Farrell, could I ask you a question about a matter which has not been raised as far as I am aware by any of the other witnesses or submissions, and it relates to the Liberal Party submission where you refer to the electorate mail-out account and the question of a level playing field, if you like. The sum of money that is allocated ranges between

\$61,000 and \$64,000 per member, that is per incumbent, in the Assembly and you point out that perhaps there should be a limit placed on that, that it apply to the first three years of a four-year parliament or that it be extended to the Legislative Council. It always seemed to me that this was a very poorly thought out proposal, it just appeared out of the blue. Would you care to comment on that part of the submission?

**Mr BARRY O'FARRELL:** When I was first elected, resources did not allow lower House members to provide a single newsletter personally addressed to their electorate each year and, with all due respect to Australia Post, putting them in unaddressed forms ensured that you never heard anything back from your constituents about your newsletters. This proposal was introduced prior to the 1999 election. It was originally designed I think, if you look at the statements at the time, to provide lower House members with the opportunity to communicate twice a year with their electorates. As you say, Ms Gardiner, the allowance is very generous and can indeed be stretched beyond just two mailings a year—and often is—and if my memory serves me well, and I think it does, it is also cumulative. So a marginal seat member could, if he or she wanted to, conserve their electoral mail-out funding to the back-end of the term—

**The Hon. DON HARWIN:** Back-end of the 12 months?

**Mr BARRY O'FARRELL:** Sorry, back-end of the 12 months, it is not cumulative over the four years, back-end of the 12 months, and use it right up until the time that the writs are issued. If you argue in favour of expenditure limits, as I do, and capping the amount of expenditure, the limits have to apply—as I think they do in Britain—to the 12-month period leading up to the election. That is important for the sorts of allowances, the publicity allowances, that incumbent members get as it is for Government funded advertising, and that is why you need an umpire, a third party—the Auditor-General—to rule off on it.

The other way to come at it is to seek to extend the allowance to members of the upper House because what we do know—and Mr Brown may want to comment on this in terms of equity and fairness—is that the way in which the parties operate is usually to allocate upper House members to seats not held by the party in the lower House. That puts some degree of fairness in it, but, Mr Chairman, you went before to this issue of fairness and the way in which resources are applied either now or in the future and that is one of the issues that I think the committee needs to address because to do otherwise simply allows the party in government, whoever that party is, to have access to greater resources and to some extent thwart the intent of any reform.

**The Hon. AMANDA FAZIO:** Mr O'Farrell, could you explain to me why it is an unlevel playing field when all incumbent members, whether they are members of the Government, the major Opposition parties or even Independents, get access to the same allowance—depending on the size of their electorate; I know there are different rates of allowance paid—and all of the material in their newsletters has to be approved by the clerk to make sure that it is not campaigning material, that it is just information material to go out to their electorate? How is that unfair?

**Mr BARRY O'FARRELL:** Well, two things: I have no doubt that the proposal and the allowance was brought in prior to the 1999 election because Labor understood that it was defending seats. In other words, it always favours the party with the greatest number of marginal seats, that is, the seats in which elections are determined. I think that is the first point. Can I say in relation to the second point that it is of enormous interest to lower House members, the fact that there are no clear guidelines, no transparent or accountable process by which you can determine what is acceptable and what is not acceptable in terms of content of your newsletter. I have had experience at different times over the years in which it has been in operation where I have not been able to describe myself as a Liberal Party member of Parliament, but then after a change I have.

I have to say that the system is vague and every time I see a newsletter from one of my colleagues that seems to have progressed the politicisation of the newsletter I wonder what is in Labor Party newsletters. So if your argument in the second part is to try to ensure that the newsletters go back to non-campaigning, non-party political material, I would support that. Can I suggest that if you look at the newsletters, many of them differ only a few ways from campaign brochures, and that is they do not advocate a "Vote 1" and they do not normally have large party logos. My favourite before the last election was a newsletter put around by the member for Drummoyne, Ms D'Amore, which did



not use the words "Labor Party" but certainly was a campaigning vehicle on behalf of someone who appeared to be the Independent local member for Drummoyne.

**The Hon. AMANDA FAZIO:** But again that would have been approved by the clerk?

**Mr BARRY O'FARRELL:** Yes.

**The Hon. AMANDA FAZIO:** I cannot understand your rationale for saying it should be extended to the upper House because members of the upper House can already issue newsletters—

**The Hon. DON HARWIN:** But they have no equivalent allowance.

**The Hon. AMANDA FAZIO:** No, if they want to pay for it out of the logistic support allowance.

**Mr BARRY O'FARRELL:** My preference is for the expenditures to be prevented in the 12 months leading up to the election campaign. That is consistent with my approach to spending limits, to campaign limits; it is consistent with my approach about putting some controls by the Auditor-General on taxpayer-funded advertising. The suggestion in relation to the upper House was that, if you want to come at it a different way, perhaps look at that, but as I am sure Mr Brown could point out, whilst he might initially be pleased with that approach, it does not really provide a greater system of fairness for anyone.

**The Hon. ROBERT BROWN:** Thank you for pointing that out, Mr O'Farrell. Coming back to the question of full public funding, you have tossed some figures on the table and it is interesting that the numbers that you have proposed are very similar to other submissions we have had. We had one from The Greens this morning that was reasonably close. One Independent member this morning pointed out that the actual cost of trying to run a campaign in, say, the seat of Murray-Darling, the seat of Barwon or even Northern Rivers, was vastly different from trying to run a campaign in a small Sydney electorate. Do you believe that there should be some leeway given if we were to fund a cap on lower House expenditure to the size of the electorate rather than the number of voters?

**Mr BARRY O'FARRELL:** I am not aware of any overseas model that does that, and I do like to look at systems that work elsewhere before trying to invent a new system—and of course, whether it is automatic ticketing machines or what, we have demonstrated ourselves incapable of inventing our own systems that work in this State. So I am not aware of any system overseas that does that, but I do note for the record that in the way in which we determine parliamentary allowances there is recognition in that the members for Barwon and Murray-Darling, who represent I think almost a third to half of the State, do get two electorate offices, compared to the member for Ku-ring-gai who has one electorate office. They get additional charter allowance and the like. I would not be able to land a plane in my electorate. So the present allowance system currently recognises that. My only concern is how do you practically enforce that system? I also note that the system of allowances for members who live closer to the city, who might fall in what we term the regions as opposed to the country, has also been questioned at times publicly as to whether it is relevant to this day and age and whether it is still fair. So good luck trying to get a system, but I do note that the current system does recognise those disadvantages suffered by members who represent vast areas of this State.

**The Hon. MICHAEL VEITCH:** Following on from that and a previous response you made, when we talk about capping expenditure we are actually talking about the current advertising arrangements, whether it be television or print media, but in the last Federal election and even the last State election one of the great movers in the process was the internet. Younger people tend to engage more via that medium than, say, the print media these days. Are you proposing that there be caps on different types of media or would you allow the political candidates the room to move?

**Mr BARRY O'FARRELL:** The caps as they apply overseas are all encompassing. They encompass all expenditure, including issues of in kind. There is clearly a difficulty in policing anything on the internet, including gambling, but there is a difference between union-sponsored viral advertising involving images of the Village People—and I resent being an Indian; it was very unattractive—which clearly was union-funded, and that should fall within the caps. That is my argument about third parties. There are differences between that and the sorts of amateur images that

young people put up on a variety of internet blogs. It is not to say that, as we see in American politics, as we see in Australian politics, as we saw with the Kevin Rudd-China visage, which was done by an amateur, they do not have great influence in the political system, but it is different to a recognised third party. So in all systems, if I could take you back to what Mr Bitar says, there will be no perfection, but it should not stop us seeking the ideal of perfection, and I think if your caps did not encompass all expenditures they are not really caps. That is why I argue at the end of the day in my submission that we should take advice from a third party umpire, somebody like the Auditor-General who, having considered the matter, sought public submissions, might help determine those levels.

**CHAIR:** In closing, would you like to summarise what you would like to see come out of this inquiry? What should be our main central recommendations?

**Mr BARRY O'FARRELL:** Firstly, I want to make the point that we support in principle the Premier's proposal to ban all donations, but it does need to be an all-encompassing proposal in relation to expenditure in relation to third parties and we need to clarify the curious term "private donation", which seems to underpin Mr Bitar's submission. Could I make the point also, whilst I am on it, and whilst Canada has been the flavour of the moment in relation to a number of models, in Canada no State-owned corporation is able to donate. In Canada no corporation that receives 50 per cent of its funding from government can donate. I noticed a couple of weeks ago when I was going through some Labor Party electoral returns that a number of members had listed various energy companies and other State-owned enterprises as donors and I think that needs to end. So that is a second issue.

Thirdly, Mr Chairman, your task, the task of this committee, the task which I support strongly, is to produce a transparent, open and fair system of electoral finance laws that will restore confidence by the public of New South Wales in the system. As I said on 10 May last year, and I know it is much clearer now; it is clear following Wollongong, but it did not take most of us to have to watch what occurred in Wollongong for us to understand the enormous community disquiet about the culture of donations and decisions in this State, the enormous pressure and demand for change and the damage that a failure to respond to that pressure was doing.

I want to note in closing that very little in politics is new and in his maiden speech to the Legislative Council on 21 September 2004, someone who is currently a Minister made the point as to why the reforms that you are looking at, that you are charged to bring forward, are important. This was said four years ago:

... the current system is dangerously unsustainable ... There is no doubt the Australian public are uncomfortable with the interaction of donations and politics. They have every right to be.

Mr Roozendaal was right then and I hope he is strongly supportive of the Premier's proposals now.

**CHAIR:** Thank you for appearing before the inquiry. We appreciate your attendance and the contribution you have made.

**Mr BARRY O'FARRELL:** Thank you for the spirit in which it was received.

**(The witnesses withdrew)**

**(Short adjournment)**

**BRUCE EDWARD MILLER**, Mayor of Cowra and President of the Shires Association of New South Wales, P. O. Box 395, Cowra, sworn and examined:

**CHAIR:** Thank you for attending our inquiry. Do you wish to make an opening statement?

**Mr MILLER:** Not at all. I just thank you for the honour and privilege of being able to give evidence at this very important inquiry.

**CHAIR:** We know that when Councillor McCaffery gave evidence she said that in trying to get the view of all the local councils it was difficult. Have you had the same problem in getting a consensus of the various councils?

**Mr MILLER:** It is certainly very difficult, particularly with rural and regional councils. I think some of the issues certainly are different to what they are in the metropolitan area or, indeed, the growth areas. To my knowledge there has never been a formal debate about political donations at all at this stage. Whilst both the two associations' executives at their joint meeting had a debate about this particular issue, that is as far as it has gone. We will debate it—my executive will debate this issue on Thursday of this week with a view to coming up with a formal resolution to go to our conference in June.

**CHAIR:** You might send us a copy of that.

**Mr MILLER:** Absolutely. I would be delighted to do that, and any other evidence that we may be able to present to you before the inquiry finishes we will be pleased to do.

**CHAIR:** As you are aware, because of events in Wollongong and other issues the whole debate has moved very rapidly in any case. What is your response to the Premier's announcement that he advocates a ban on all private donations in favour of a system of public funding?

**Mr MILLER:** In view of the comments I have just made—these are my personal comments and also the view of the joint executive meeting—we support the Premier's announcement as far as this is concerned. We believe there should be a total ban on political donations. Obviously that is going to be difficult to do, but I hasten to say about the point you have just made about things moving very quickly, I think it is very important that we arrive at a system that is consistent right through the three levels of government—Federal, State and local government—to make sure that not only justice is done but is seen to be done by particularly a very cynical community at this stage.

**CHAIR:** So if there was a ban would it cover everyone or only certain groups such as developers?

**Mr MILLER:** I think it should be right across the board. How do you define a developer? I do not know how anybody could define a developer. I think right across the board is the only way to go and therefore it takes any of the perception out of the whole issue.

**CHAIR:** Do you see any problems in enforcing such a ban?

**Mr MILLER:** I think it is very difficult to enforce that particular ban but I would think there are people much smarter than I that would be able to come up with a system that would allow that to happen.

**CHAIR:** You indicated in your view it should cover Federal, State and local government. There is now the issue with public funding as to whether local government should now become part of the public funding. Do you have a view on that?

**Mr MILLER:** I think if there is going to be funding at all for political campaigns all levels of government should be publicly funded, not just State or Federal. The same should apply across the three tiers of government.

**CHAIR:** Do you have any recommendation of what that funding amount might be say for a local government election compared with, say, the State's \$2 plus a vote and the local government's 50¢ a vote?

**Mr MILLER:** I have not thought that through in that sense. I just think the same principle should apply. Really it should be about whatever applies at the Federal or State level should apply just as evenly at the local government level.

**CHAIR:** If there were no donations obviously it would have to apply for local government otherwise it would not have any funds for campaigning.

**Mr MILLER:** Absolutely. I think the other point that really needs to be made though, particularly in rural and regional areas, is that the type of funding that is made available for election campaigns is certainly different to perhaps what it is in the growth centres and metropolitan area. Therefore, that needs to be looked at as part of this whole process. Just to give you an example of that, and I can speak from my own campaign at my last election where I know that in filling out the returns after the election I was the biggest spender in my election in Cowra. There were 22 or 24 candidates for 11 positions and I actually spent \$1,000 on my campaign, and that was the most spent by any candidate.

Many do not spend any money at all and certainly I am aware of others around the rural and regional parts that may have spent \$80 or \$100. So I think it has got to be very careful how we look at this. Whether some of those declared all of their donations or whether they were in-kind donations, that is a matter of perception, I suppose, and something that would need to be looked at if we were going to put a consistent system in place.

**The Hon. DON HARWIN:** It reminds me of my late colleague Dr Kernohan. I know Camden these days is not a rural shire anymore, but at her last election after she retired from Parliament she went and stood outside the polling booth and waved to people as they came and she got two quotas. She did not spend a cent.

**Mr MILLER:** The issues are different, I think, and therefore this inquiry needs to reflect that as well.

**CHAIR:** That certainly would be a challenge because I imagine the metropolitan councils would require certainly more than \$1,000 per candidate, would they not?

**Mr MILLER:** I am not in a position to answer that other than to say that whatever system is put in place it should be consistent and it should be at arm's length, whether it is public funding or some other way of funding, and it should be administered by an independent body, not just by a particular party headquarters if it is a political party, and some other body for independents. I think it really should be the one body administering any funding at all for election campaigns.

**CHAIR:** So there could be a cap on expenditure and the funding would only be in relation to actual expenditure? In other words, you cannot make a profit out of funding?

**Mr MILLER:** Absolutely. I must say that amazed me just reading about that in the paper where for some candidates the donations were very profitable for them because they did not expend the amounts of money that were donated to individuals. If there are going to be political donations they should go to an independent body and invoiced and paid for on the expenditure.

**The Hon. ROBERT BROWN:** We just talked about public funding. Do you believe that the current disclosure requirements have a negative effect on trying to get people to stand, particularly for rural and regional councils?

**Mr MILLER:** No, I do not. I do not think it is a problem at all. The only problem with disclosure is it is too late and I actually believe disclosure should be made prior to the ballot rather than six or 12 months afterwards. That is the only issue. But it is certainly not an impediment to attracting candidates in rural and regional areas.

**The Hon. MICHAEL VEITCH:** Just following on from my colleague's question, we have received several different versions of disclosure of donations and possible models for that. A regular theme has been the need for certified audited statements on a regular basis, whether it be quarterly, half yearly or annually. Would it be fair to say that the majority of the constituents that you represent with the Shires Association run as independents as opposed to members of political parties? Would that be true?

**Mr MILLER:** That is absolutely correct.

**The Hon. MICHAEL VEITCH:** So what would be the impact of, say, quarterly certified audited statements?

**Mr MILLER:** I think it would be a cost that is not required. Certainly, it would be an impediment that is not needed for rural and regional councils. I think as long as disclosures are perhaps updated on a half yearly basis in your returns, in your disclosures, the same as we disclose anything else, that they are recorded here and therefore the appropriate amendments are made to the Act to make sure that you have a pecuniary interest if you received a donation from somebody and you are then breaking the law if you do not declare that pecuniary interest. I think that is enough of a safeguard because they are open to public scrutiny. But on a six-monthly basis, I think, as long they are updated. At the moment they are updated on an annual basis.

**The Hon. MICHAEL VEITCH:** You mentioned your \$1,000 campaign. Do you think there is some confusion amongst rural and regional councillors about what they actually have to disclose in their returns regarding funding their campaigns with regard to in-kind as opposed to self-funded cash contributions?

**Mr MILLER:** Possibly. On a personal basis, I used my own. I do not have any difficulty with that. I think that certainly it is about disclosing everything that might be given to you to sort of progress your candidacy, I suppose, and certainly I see that—whether it is in-kind, whether it is somebody offering you a spot in the newspaper or whatever, whether it costs you money or not—it needs to be costed and it needs to be declared.

**The Hon. AMANDA FAZIO:** In relation to the low level of expenditure of some candidates in country areas in local government, do you think it would be acceptable if you had a system of, say, six-monthly reporting that if somebody had an annual return that there would be no need for an auditor to certify that because the auditor would then have to certify a return after an election, for example, when I think in most country areas people tend to try and raise their money in the immediate run-up to the election date? Would that work?

**Mr MILLER:** As I say, I actually do not think that part of it is a problem now, except that it is not disclosed prior to the election. I think that certainly in most cases the 12-monthly reporting is fine but if it changes in that time, perhaps six monthly—in a lot of cases what I think we are talking about here is perception rather than fact in that certainly in rural and regional areas I do not believe that what has taken place in places like Tweed and Wollongong, et cetera, is widespread and therefore I think that certainly what is in place now to some degree is appropriate.

Having said that, I think that the same system should apply to everybody, whether it is State, Federal or local government. If we are going to have a system it should be one that is fully understood by all political candidates, whichever tier of government.

**The Hon. MICHAEL VEITCH:** As you would be aware, the Premier has spoken about the possibility of having some sort of process in place in time for the upcoming elections in early September. Do you have any comments about the practicalities of putting that in place or in that context of what would you put in place?

**Mr MILLER:** I would have concerns about it if it were going to be a knee-jerk reaction to a couple of issues, such as the Wollongong issue at the moment. It has to be properly thought through so that whatever comes will be able to be implemented at other tiers of government elections as well. The local government elections are on 13 September, a very short time frame. If we were confident that whatever was put in place is going to apply to other elections in the future that is fine. If it is just

going to be a stopgap solution and other levels of government think that the whole thing might go away after that, I would have major concerns about that.

**The Hon. AMANDA FAZIO:** The Premier has announced that one of the things he would like to see happen in funding reforms is that developers when putting in a development application to a local council also need to disclose any donations they have made to local councillors. I would like your comments on that and also on a proposition that has been put to us by other witnesses that it should not be only the proponents for developments who put up their hand and be clear about their involvement in funding councillors but also the people opposing developments. They may be opposing a development not necessarily out of a civic- or community-minded attitude but to assist their business interests or property values.

**Mr MILLER:** I think you have just made the case for public funding rather than private funding. That is the absolute reason why it is vital to get rid of it, not just for developers, the proponents or the people in opposition. It is really about perception. That is why it needs to be open and transparent and should be publicly funded if we are going to have political donations not from third parties.

**The Hon. JENNIFER GARDINER:** Given that the Premier is on the record saying that the reforms should be through in time for implementation prior to the local government elections, has Mr Lemma or anyone in Government consulted with the association as to your views about the reforms?

**Mr MILLER:** Not to date, no. Certainly we would welcome that and we would expect that. As a result of your inquiry and draft, we would expect to have input into that prior to it being adopted.

**The Hon. ROBERT BROWN:** The problem seems to be a correlation between decision making and money given. One way to solve that is to take away the money given and make it all public funding, but that in itself has other problems associated with it. Looking at the other side of the coin, there have been many suggestions as to how the process could be made more transparent. In relation to local government, what is your view for larger developments taking the development approval process out of each local government area and giving it to, say, regional panels—in other words, removing it from the individual councils? Do you think that would have an impact on the perception that developers are paying to get their developments approved or opponents to knock them over?

**Mr MILLER:** No, I do not and I do not support that at all. I believe if you are going to impose that or it were the intent to impose so-called independent planning panels on rural and regional areas, I would respectfully suggest that the same rules should apply to the Minister and everybody else.

**The Hon. DON HARWIN:** Councillor Miller, would it also be the case that the so-called independent experts who would sit on these panels, many of whom would be architects and professionals involved in property development in some way, could be open to the same conflict of interest that councillors face?

**Mr MILLER:** It is a point well made, Mr Harwin. It is like defining "developer", as I said at the start of this inquiry. It is difficult to define "independent".

**CHAIR:** Last year the Independent Commission Against Corruption [ICAC] produced a position paper on corruption risks in New South Wales in government approval processes and recommended that the model code of conduct be amended to provide clear instructions to councillors on matters pertaining to campaign donors. It also recommended that candidates for local government be required to publicly disclose donations in the period leading up to an election. What is your opinion about the ICAC recommendations?

**Mr MILLER:** I fully support those recommendations. Certainly I am aware that some councils have strengthened their code of conduct. All of us do have codes of conduct. Many have strengthened them in relation to those particular recommendations. It is really about making sure that they disclose the donations. The comment you have just made about disclosing prior to an election is

something, as I indicated, we fully support as well. I actually do not believe that local government should be singled out. This is really about all three levels of government, not just local government.

**The Hon. MICHAEL VEITCH:** You said that councils have implemented the ICAC recommendations in the codes of conduct. How many of your member councils do you think have done so?

**Mr MILLER:** We have not done that survey, Mr Veitch, but I think that is something we should do and perhaps we could supply to you, Mr Chairman, in the next little while. It will not be too difficult to do that. I am certainly aware as far as my counterpart, Councillor McCaffery, is concerned that North Sydney is one council that has done that. Certainly as far as my own council is concerned, under our code of conduct we are required to disclose donations and not take part in any debate or discussion about a particular development. So a number of councils out there have done it to date. I would think that as a result of the focus that has been put on all levels of government in the last few months and, as we know, the Prime Minister as well as the Premier support a proposal to make sure that it is more open and transparent that councils will strengthen their codes of conduct to make sure the disclosures are made.

**The Hon. MICHAEL VEITCH:** It would be interesting to see how many councils have done that. I know that particularly in rural councils many ratepayers are not aware of their council's code of conduct and they are also not aware of the pecuniary interest returns that councillors have to fill in every year that are kept at the council offices. Do you think there is an argument to move towards an electronic arrangement whereby individual ratepayers can go to a website and access that information?

**Mr MILLER:** To my knowledge, certainly as far as my own council is concerned, all of those documents are there for public scrutiny and all our documents are placed on the Web. I have not gone in to see whether those are there, but now that you have raised the question I will have a look. I would be very surprised if my council's code of conduct and everything else is not there for public scrutiny. The other point I would make about that, particularly about the code of conduct, is that it is something that is adopted and needs to be reviewed annually. It is placed on public exhibition prior to it coming to the department for sign off. It has a 28-day public submission period as well. Obviously you never make contact with all of your community or all of your constituents but you try as best as you can.

**CHAIR:** Were those ICAC recommendations forwarded to you by the ICAC?

**Mr MILLER:** They were forwarded to all of us. I am unsure whether they came via the ICAC or the department, but certainly they were dispensed to all of the councils. They are all aware of it.

**CHAIR:** Was it left to the councils to make a voluntary decision?

**Mr MILLER:** Absolutely, at this stage it was.

**CHAIR:** Were they directed to amend their model code?

**Mr MILLER:** No.

**CHAIR:** They were just requested to consider it?

**Mr MILLER:** Yes, it was a suggestion.

**The Hon. AMANDA FAZIO:** Councillor Miller, I am aware in the run-up to local government elections some councils hold information sessions for prospective candidates. Do you think that enough information is given at those sessions about the code of conduct, the fact that they have to disclose donations and put in funding returns?

**Mr MILLER:** It is pretty hard to give a definitive answer as far as those are concerned. Certainly at my own council, and I have been through four elections so far, there have been

information sessions and they run over a six- or eight-week period. As far as this particular election is concerned, the association is putting a package together to enable councils to take advantage of that. Part of that package, of course, would include codes of conduct, pecuniary interest disclosure and all the rest of it. Because it is not a legislative requirement to have those information sessions, how many councils conduct them, at this stage I do not know.

**The Hon. ROBERT BROWN:** On the other side of the coin, that makes potential councillors aware of their responsibilities. From your own experience as a councillor and living in the country, how would you describe the level of awareness, education and sophistication of the average voter in terms of their knowledge of what they are doing and how to do it and what their vote means? Do you think your shire's constituents are politically aware or otherwise?

**Mr MILLER:** I think varying degrees of that, depending on the effect it might have on their everyday lives. It is about what affects your life—perhaps a development, whatever. Certainly some are more aware than others but they very quickly make themselves aware if it is an issue of concern to them. As far as candidates are concerned, there is an acceptance that there needs to be better focus on education even after candidates are elected as far as training about their responsibilities. It is a very vexed issue as far as the 1993 Act is concerned as to the roles, responsibilities and devolution of power between the policy-making arm of councils and the operational arm of councils. They are all interesting by-lines, I suppose, of the democratic process. I would think overall there is an understanding of the role.

**The Hon. ROBERT BROWN:** Do you believe there could be an argument for more emphasis, more resources and more money to be put into public education about the functions of the three levels of government?

**Mr MILLER:** We are probably getting into a philosophical debate or discussion now. I believe that the first debate should be about the roles and responsibilities of the three levels of government by the elected members of those three tiers of government and then perhaps we can educate the public. I think there is perhaps not an understanding of all the respective roles. There is an expectation by the community that things just get done. There is not an absolute understanding of which tier of government has that responsibility.

**The Hon. ROBERT BROWN:** My question was not purely philosophical. Some witnesses have put forward ideas, for example, that the electoral process should be publicly funded but that the funding should not be directed not towards the electoral candidates but towards general public education about the electoral process. Suggestions have been made, for example, that if developers want to show that they have civic pride they should contribute not to a particular candidate but to a public fund. That is why I raised the question with you.

**Mr MILLER:** That is very commendable. If that were to happen I would certainly support it. From my own perspective, and I am sure it happens right across the council spectrum, we conduct education classes, in particular, with our schools. That happens as a matter of course.

**The Hon. ROBERT BROWN:** That happens now?

**Mr MILLER:** We do that now. I would assume that happens with other council areas as well.

**The Hon. MICHAEL VEITCH:** When would you propose that public funding kick in? A number of people contest the election. Does the money come prior to or after?

**Mr MILLER:** It is a very difficult issue and one that I have not put my head around at all. This is about an open, transparent democratic process. The perception is at the moment that support can be bought. So we have got to try to fix that somehow. As to the mechanics of doing that, as far as public funding is concerned, somebody much smarter than I am will come up with that system.

**The Hon. MICHAEL VEITCH:** Do you think if there were to be—



**Mr MILLER:** Sorry to interrupt, but could I just add that what is important is to make sure that whatever process we put in place enables the most candidates from a cross-section of our community to be able to stand for election. It is not about who has the deepest pockets or who represents those with the most influence. It is really about the whole democratic process representing our community as a whole.

**The Hon. MICHAEL VEITCH:** That was my next question—do you think public funding would increase the pool of candidates at the next local government election and obviously you think it could do.

**Mr MILLER:** It could do.

**The Hon. DON HARWIN:** I have one last question that I think you may have touched on already, so apologies in that respect. I am just thinking through the practicalities if we had a system of complete public funding of elections. How would you fund independent councillors? I am interested in your views on this, particularly if a councillor is not an incumbent and is running for the first time. I do not know if you are in a divided or an undivided council in Cowra—

**Mr MILLER:** Undivided.

**The Hon. DON HARWIN:** Then you might have a \$5,000 or \$10,000 limit, take your pick. A first-time candidate might decide they want to have a how-to-vote card and a brochure and maybe an ad or two in the local paper. How would you envisage that that expenditure would be triggered prior to the election? Would the candidate have to whack it on their bankcard, for example, or should there be a formal arrangement whereby money can be advanced and then queried, how much—

**The Hon. MICHAEL VEITCH:** Heaven forbid, they might take out a loan.

**The Hon. DON HARWIN:** Indeed. Certainly political parties have to take out loans and overdrafts to cover State and Federal elections. Do you have any thoughts on which way we should go with some of those options if we were designing a system?

**Mr MILLER:** Not really. I think the overriding factor should be that some funding should be made available in some form at the start of the election campaign. I am uncertain of the detail of how that should be done. That is the difficulty with this whole issue. I think the whole thing needs to be administered by a completely independent body, whether it is the Election Funding Authority or some other independent body, rather than have some funds administered from Sussex Street and some from William Street, or whatever. It is really about making sure that whatever system is put in place it is administered from the same place.

**The Hon. DON HARWIN:** Virtually every major public funding system that I can think of involves the reimbursement of expenditure based on the vote you get at the election, but if someone is a new player it is almost impossible to judge what level of support they will get. This morning we were talking about the possibility that the electoral regulators might poll to see what level of support councillors were going to get, but if we were going to get into that sort of arrangement in councils when there is not only a multiplicity of councils in the State but many are divided further into wards, the cost would be prohibitive.

**Mr MILLER:** I think you have certainly highlighted an issue; there is no doubt about that. You are right. In the past it has been paid after the event and in any existing system it is paid after the event. Someone will have to design a system that enables some of the funding at least to be paid up front.

**The Hon. DON HARWIN:** Let us know if you think of one!

**Mr MILLER:** That is very difficult. I hasten to say, though, that just because it is difficult it should not stop us from trying to do it. It is really about trying to get this whole process right. Again I say to you, Mr Chairman, in your deliberations—obviously I will be saying it to the Premier as well—if there is an intention to put something in place before the local government elections in September, it should be consistent with what is going to happen at other levels of government. Obviously your

inquiry is about state and local government and other than having an input into the federal system it is about trying to come up with a process that is open and transparent and fair to all parties—by that I mean individuals—that wish to stand for election at a local government, state or federal election.

**CHAIR:** Thank you very much for appearing before our inquiry and giving us the voice of the country.

**Mr MILLER:** Thank you very much for the opportunity.

**(The witness withdrew)**

**Mr PETER DRAPER**, Independent member of Parliament for Tamworth, before the committee.

**CHAIR:** Welcome to this inquiry. As you know, members of Parliament do not need to be sworn in as you have already sworn an oath of office. Do you wish to make an opening statement?

**Mr PETER DRAPER:** Just briefly. Thank you very much to the committee for giving me the opportunity to appear before you today. This is a very important issue and one that has created a great deal of interest among the public. Naturally we want to make sure that if changes are made they are as fair as possible and do not disadvantage individuals or groups. As an Independent I think I possibly bring a different perspective to the table than some. I am looking forward to receiving questions from the panel and hopefully answering them to the best of my ability.

**CHAIR:** Thank you. As you know, there has been a lot of publicity about the Wollongong situation. Many inquiry participants have claimed that political donations from property developers, for example, result in unequal access to government and undue influence on government policy. What is your response to those claims?

**Mr PETER DRAPER:** There is a lot of speculation about the impact of developer donations and Wollongong I think is only the latest in a series of fairly high-profile scandals that have wracked our nation over the years. Similarly, the Office of the Minister for Planning is under continual scrutiny, from the media in particular. It appears that planning processes are more likely to be influenced by developer donations, in particular in local government. One of the things I have been looking at with a great deal of interest is the South Australian model, under which planning powers have been taken away from councils. If councils believe strongly in a particular development application they have the ability to lobby on behalf of their constituency—in that case the developer—to the planning panel. There seems to be quite a lot of merit in that model in that it is taking away the perceived taint of money flowing in in return for favours being given out. Similarly, councils that oppose a proposal can lobby very strongly against it to the planning panel. There was a lot of opposition to that model when it was first proposed, but having spoken recently to a number of people who are on councils in South Australia, it appears the model has been well accepted and has removed that suspicion of improper behaviour.

**CHAIR:** The Premier has also made one or two announcements, one of which was that he would support a ban on all private donations in favour of public funding. Who do you think should be covered by such a ban and how would it affect Independent members and local government members?

**Mr PETER DRAPER:** Any ban on political donations should not be targeted to one area; it should cover everybody—all individual candidates and political parties. If that is going to be the case, it has to be the same for everybody. I have no real problems with the proposal to fund individuals' election campaigns from the public purse provided it does not spell the end of minor parties and Independents. I have heard speculation that the new model may well follow the federal system and reimburse candidates by a set amount of money per vote. That model discriminates against new candidates in particular and very much against Independents in the lower House. If there is a disgruntled constituency, a person can be elected on a very small primary vote. I have only to point to Tony McGrane, the former Independent member for Dubbo, in 1999. He was elected with 22.68 per cent of the vote. He got 8,997 primary votes and yet he spent a considerable amount of money on his campaign to get elected. If you were given \$2.50 as an arbitrary figure, a bit over \$20,000 comes back, but you may well spend four or five times that amount in the process of getting elected.

Another problem that I see with some of the things that have been floated—I have to say I am still not 100 per cent clear as to what is being proposed. It is still very much media speculation and personal interpretation. No platform has been laid down for people to examine closely. One of the things floated was that the amount of expenditure by individual candidates in an election campaign be capped. They were talking about \$35,000. That is fine if it is a fair playing field for everybody, but having gone through a couple of elections, as an Independent you do not have the back-up of a party having oversight of a campaign and saying, "Look, our bloke's in trouble in this seat. It may well be at risk, so we're going to put in head office funding." From what I read, they are saying that head office donations from Labor, Liberal or the Nationals will be capped at a certain amount at a statewide level.

It does not determine where that is to be spent. One individual Independent candidate, for example, who looks like winning a campaign may well have a substantial amount of head office's funds that have been allocated for the entire State diverted against him and he has no method of responding to that. That is a very unfair playing field.

Similarly, when capping political expenditure, what safeguards are there to prevent third-party agencies from supporting an individual, be it in your own instance, Mr Chairman, a Christian group, for example, or a Shooters Party, or any one of a number of organisations that may well want to support a candidate because they hold similar beliefs. Freedom of speech means that you cannot really prevent them from coming out publicly and spending their own money to say, "If you follow my philosophy you should be supporting this candidate." I am not sure how you can get around that sort of issue legally. I am fully in favour of anything that provides more transparency but it has to be a level playing field.

**CHAIR:** The Premier also said he would work with the Election Funding Authority to increase the transparency of Independent candidates' campaigns at state and local government level. Do you feel that is necessary? Has it been transparent?

**Mr PETER DRAPER:** If we are going to have change it has to affect everybody. I am more than happy with increasing transparency through whatever method is deemed necessary, but I do not know how you are going to further increase transparency for Independents. I can only use myself as an example because I am not in a party and do not compare how we do things.

My campaign is run separately by my campaign manager, who writes the cheques and who then presents all of the expenditure and any funds raised to my auditor at the end of the process, and it is thoroughly audited. A certificate is produced and handed off to the Electoral Commission. All of those figures are available on the Electoral Commission's website, or elections New South Wales, or whatever it is called these days. Nothing can, or would, be hidden from my perspective, nor should it be. I think if the same attitude is applied by everybody, we would be in a probably better situation.

**CHAIR:** Do you support a cap on expenditure? We have heard a report that one Independent candidate spent \$98,000 in the State election. Would that be a capped figure of \$100,000 per candidate, or \$30,000?

**Mr PETER DRAPER:** Yes, I have made reference to that previously. I am in favour of a cap but it has to be an equal playing field. Similarly—and I noticed that one of the Liberal Party candidates spent \$300,000 and that is not to mention the statewide advertising that was going on very heavily on radio, in the press, and on television in Sydney—I find it a little bit disturbing that an Independent candidate would be singled out for attention for spending \$100 grand. I spend \$100 grand in my campaigns. You have to. I live in the country where you have to reach all areas of your electorate, which involves a very substantial spend on television advertising. Candidates in the city do not need that sort of expenditure.

One of the concerns I have, similar to an issue I raised a while ago, is when you are doing an advertising campaign on the television and, all of a sudden, with two weeks to go, an outside party bobs up and starts running what I believe were very defamatory and untrue television advertisements about me, with no recourse from me. I simply do not have the resources to go and try to produce more advertising to counter that. That is an example, if there was a cap, of how do you stop that third party coming in and spending their own money to try to promote one side of politics against another side?

**The Hon. AMANDA FAZIO:** Just to follow on from that, Mr Draper, you were saying or we were talking earlier about just a rough idea of, say, if there is an expenditure cap of \$35,000 per candidate. Could you envisage a situation where an Independent candidate who had that cap of, say, \$35,000 in place might be targeted by multiple candidates being run by another organisation? Therefore they would have three or four lots of \$35,000 available to try to unseat the incumbent Independent. What do you think could be done to try to stop that sort of scenario coming into play?

**Mr PETER DRAPER:** That is a very good question. I think that is a possible scenario. What you can do to stop it is a little bit in the realms of the never-never at the moment. I am not quite sure how you would go about preventing something like that happening unless you have very

stringent rules. How do you determine whether somebody is running for a particular side of politics or running as a dummy player to support that side of politics, which we have seen happen in the past in a number of instances?

When you look at the Federal system, one of the things that came home very starkly to me during the last Federal election was how the current government was supported extremely effectively and in a very expensive way through the Your Rights at Work campaign with WorkChoices. That was extremely clever target marketing done by an outside agency. Similarly you could argue that the former government spent an awful lot of money on pro-WorkChoices advertising in an endeavour to support their cause.

I am not sure, and I still have not got my head around it, how you actually prevent things like that happening. I mean, how can a piece of legislation cover all of the possible ways, creative ways, of approaching the political system? The last thing we want to see is a process that drives it underground and creates think tanks, looking for ways to beat the system. I think we are all after more transparency and a better model. I am not sure whether it is going to be an easy task to come up with that better model.

**The Hon. AMANDA FAZIO:** We have heard conflicting evidence from people in relation to third parties with some people saying that if you have a ban on donations and full public funding, then the ban on donations should apply to third parties. We heard earlier this afternoon that third parties should not be covered by that—that it is part of basically the right to freedom of speech to have an organisation that advocates for a vote in one particular way or another, and that that organisation is not actually running candidates in an election. What is your view on that? Do you think that if there is a ban on donations and full public funding, that should apply not just to candidates and parties but to third party organisations as well?

**Mr PETER DRAPER:** In a fairly fumbling attempt, I have been trying to say that. But I still cannot get my head around how you get over the free speech aspect of it, which is what I raised a while ago, in that individuals should not be dictated to because they want to promote a certain way of life. For example, you know—"We want to promote a healthy lifestyle candidate, and candidate Bloggs espouses all of our ideals and would be a good person to support." How do you stop an organisation or a person exercising their right to speak their mind? I am not sure that you can, legally.

**CHAIR:** Or to oppose a candidate?

**Mr PETER DRAPER:** Correct.

**The Hon. MICHAEL VEITCH:** Mr Draper, I refer to the issue of in-kind donations. In your experience as an Independent, have you received in-kind donations?

**Mr PETER DRAPER:** No.

**The Hon. MICHAEL VEITCH:** Are you aware of in-kind donations for your opponents?

**Mr PETER DRAPER:** Absolutely. Undoubtedly. A television advertising campaign in the last two weeks, which would have cost conservatively \$15,000 to \$20, 000, would have to be a pretty good in-kind donation, I would have thought.

**The Hon. MICHAEL VEITCH:** But you are saying that that has not been reported.

**Mr PETER DRAPER:** It does not have to appear anywhere. That is one of the anomalies at the moment. I mean, here is a substantial amount of money being expended on a blatant political campaign to promote one side of politics which, under the current system, does not need to be reported at all, and was not reported. It does not appear in any declarations.

**CHAIR:** Because it was by a third party.

**Mr PETER DRAPER:** Yes, by a third party.

**CHAIR:** Not by the other candidate.

**Mr PETER DRAPER:** Correct.

**The Hon. MICHAEL VEITCH:** The other issue that has been raised a lot is that whatever we implement or recommend at the State level should also apply to local government arrangements. Do you see any issues that we may confront in trying to do that with local government?

**Mr PETER DRAPER:** Look, there will be issues. It is a very different beast. In local government, traditionally you do not have the expenditure that you need in a State campaign. I can only speak from having watched the local government elections in my area over quite a number of years with a great deal of interest. The average person up there would spend \$2,000 at the most. That is a few leaflets and maybe one T-shirt for every booth or something. There is no great expenditure on council elections. The city may well be very different; I am not sure and I cannot speak for the city. But in the country, I do not know that there is a necessity to reimburse local government elections. But it would be a tax deduction. I mean, people do not spend money in the country trying to get elected to the council.

**The Hon. MICHAEL VEITCH:** What you are advocating then is that we not extend public funding to local government elections.

**Mr PETER DRAPER:** Oh, I do not know that it is necessary. I am not sure that it would be. I think we just encourage people to spend more money when it is not necessary to spend it in the first instance.

**The Hon. DON HARWIN:** Yet in some coastal councils outside Sydney—for example, the one I live in—one candidate for the popularly elected mayor and the ticket that he ran meant that he spent almost \$100,000.

**Mr PETER DRAPER:** I fully appreciate that. That is why I said I can only speak about what happens in my local area. I really do not have any experience with coastal or city elections. They are outside the realms of my experience.

**The Hon. MICHAEL VEITCH:** One of the other matters that has been raised with us is the frequency of not disclosing, the disclosure regime that we would be putting in place, and having certified audited statements, say, quarterly or half yearly. Do you have a view about that?

**Mr PETER DRAPER:** My auditor would not get rich on it. You could have it, but it is fairly pointless when I only raise funds or money in the last three months before a campaign. So I have no problem in it being audited weekly if you want to. It does not make any difference to me at all.

**The Hon. MICHAEL VEITCH:** So you are a fan of real-time disclosure?

**Mr PETER DRAPER:** Absolutely. I try to look after the disclosure laws by declaring very quickly after I raise any funds, yes, which is basically in the last couple of months before the campaign.

**The Hon. ROBERT BROWN:** Just talking about the spread of ideas and opinions that have been expressed here, the Premier has come out and said "full public funding". We have had other proponents in here who say, no, that causes all sorts of problems for the ability of people to express their democratic view. In other words, there should not be private donations, et cetera. The objective is to make sure that political donations are not attached to favours, shall we say, and that is where it has come from.

**Mr PETER DRAPER:** Absolutely.

**The Hon. ROBERT BROWN:** There also appears to be the opinion that political funding should be levelled—in other words, make it a more level playing field. That argument I guess is most

strongly supported by Independents and small parties and/or the particular major party which either is not in power or has not had as much funding. That is just logical.

**Mr PETER DRAPER:** Yes.

**The Hon. ROBERT BROWN:** The other end of the scale suggests that we do nothing about that and just clean up the Act that we have now. Do you have any view on the current funding, resources and ability of the Electoral Funding Authority to do its job? If we were to implement a series of reforms to try to increase the amount of scrutiny, would you see any different way of doing it? What would you propose?

**Mr PETER DRAPER:** The funding authority is really just a post box. All they do is collect mail and post it on the website, and that is about the end of their authority.

**The Hon. ROBERT BROWN:** That is right.

**Mr PETER DRAPER:** As far as processing the reimbursement for MPs who are successful or who have gone over the 4 per cent or whatever it is to qualify for reimbursement is concerned, it took them over six months to get funding back. In the lower House, there are only 93 of us. It is quite extraordinary. So either they are completely underresourced or their focus is on something else—I am not quite sure. If you are going to do it sensibly, you would need to have some sort of alternative body that is very much focused on the issues, which are raising transparency, increasing accountability and actually taking an interest in the process—because I do not think the current system does.

**The Hon. ROBERT BROWN:** In particular if you were to go to, say, full online live-time disclosure.

**Mr PETER DRAPER:** Yes.

**The Hon. ROBERT BROWN:** Okay. Just in relation to your comment, what is your view about the equity of the rules applied in terms of who gets expenditure reimbursement and 4 per cent of the vote. What is your view about that?

**Mr PETER DRAPER:** Well, that is really historical, is it not? I have not really thought a great deal about it. If you cannot get 5 per cent or so of the vote, then you are really wasting people's time, and perhaps it should even be higher. But then again I do point back to campaigns where, you know, for just over 20 per cent of the vote you can win an election. So it is pretty hard to have this one-size-fits-all regulation which will capture all the things you are trying to capture. I personally would not have a problem with it going up if I was a candidate and wanted to make a protest vote about an issue of concern in the electorate that I live in, and was hoping to get some sort of reimbursement to cover my costs, knowing full well that I am not going to be elected but wanting to have my point heard by the constituency. I would want it to be as low as possible. So there will always be conflicting views.

**The Hon. JENNIFER GARDINER:** Mr Draper, as you said, being an Independent member, you bring a different perspective to the issues that we need to consider. I wonder if you could fill us in, by using your last couple of election funding returns, about last year's election when you declared that you spent \$112,000, as you indicated earlier, and you declared that you received \$22,175.

**Mr PETER DRAPER:** Yes.

**The Hon. JENNIFER GARDINER:** And that you did not get any funds from fundraising activities.

**Mr PETER DRAPER:** No.

**The Hon. JENNIFER GARDINER:** And in the previous return for the 2003 election, you said that you did not make any contribution to your own campaign, given that some of the expenses

would be reimbursed through the constituency fund to which you are entitled. Can you just fill us in as to where the rest of the money came from?

**Mr PETER DRAPER:** I went to the bank and got a loan.

**The Hon. JENNIFER GARDINER:** Right. You did that.

**Mr PETER DRAPER:** It is the only job in the world where you have got to go to the bank and borrow money against the value of the house to buy your job back. I think it is quite ridiculous.

**The Hon. JENNIFER GARDINER:** And you did that for the two elections?

**Mr PETER DRAPER:** Yes. Actually, I did not have to borrow money in the first election. I actually had some money of my own in the bank, but I spent that.

**The Hon. JENNIFER GARDINER:** Right. One of the issues that has been in the public domain has been the question of loans, even a loan to oneself. Do you agree that perhaps that is one area that should be attended to and that loans of whatever nature should be disclosed?

**Mr PETER DRAPER:** I would have thought that if I believe enough in myself to go and have a conversation with my bank manager and extend my mortgage, I do not know that that is a matter of public disclosure, it is a private issue between me and my wife and the bank manager.

**The Hon. JENNIFER GARDINER:** Fair enough.

**Mr PETER DRAPER:** What point would be accomplished by telling people what my private loans are with the bank manager?

**The Hon. DON HARWIN:** I suppose if the loan was from a third person—

**Mr PETER DRAPER:** Absolutely. I have no problem with that but going to your bank and extending your mortgage, I do not know that that is a matter of public interest, is it?

**The Hon. JENNIFER GARDINER:** Do you say that your 2003 return is wrong because you have signed it and it says "contributions made by candidate to his or her campaign" nothing?

**Mr PETER DRAPER:** Quite possibly, I do not know. I am not looking at the document that you are looking at but what I can say to you is that I had money in the bank when I started the campaign and spent seven months knocking on doors and then funding certain aspects. In my first campaign I would also say to you that benefactors put in a huge amount more than they did in the second campaign. At the end of the campaign my bank account was nearly empty, so that is the story.

**The Hon. JENNIFER GARDINER:** In terms of the administration of the Act as it is at the moment—you mentioned it took six months for them to pay the constituency fund allocation to which you were entitled. You would not have been on your own in getting a letter from the Election Funding Authority which raised a whole lot of questions as to the vouching for your expenditure with respect to the political contributions received, the radio television and cinema advertising, newspaper advertising and so on, a whole lot of questions which the Election Funding Authority did in fact put to you. Do you believe that currently the way that the Act is administered is too onerous in respect to such vouching procedures?

**Mr PETER DRAPER:** No.

**The Hon. JENNIFER GARDINER:** It is certainly not as onerous federally. You do not see any need to change that?

**Mr PETER DRAPER:** No.

**The Hon. JENNIFER GARDINER:** Obviously that would have contributed to the slowing down of the claim and the refund.



**Mr PETER DRAPER:** No, because they wrote to me and I obtained the information and had it back to them within three days. So, no, that does not explain the seven or eight months or whatever it was.

**CHAIR:** What one or two main recommendations would you like to see come out of this inquiry?

**Mr PETER DRAPER:** That is tough because we all want to see a better system, we all want to see more transparency and we all want to get away from this perception that every politician is a crook who has got out his hand trying to grab money from people to make corrupt decisions. That is not the case, and when you look around the room people here would be absolutely offended by the insinuation that they would even think about taking money for illegitimate purposes. I would like to think that about everybody serving in this place because you do not come in here to corruptly graft money out of organisations to feather your own bed, you come in to try to make a difference, in my opinion, and I think all the people that I have met in here try to uphold the highest standards possible.

I would like to see a more transparent process. I would like to see it where everybody does play on a level playing field. I do not know how that is going to be accomplished and I do not envy the task of the committee because it will be quite daunting to come up with recommendations that will make it equitable for everybody, in particular, Independent candidates who want to start off and are relying on some sort of pre-determined dollar value per vote that they get as a primary vote. They will have to go into an election campaign realising that they are taking on an enormous risk and basically if they are not independently wealthy already they are going to have to take a mortgage on their house and risk that sort of implication, which is a very long-term implication, if they want to have a chance at even trying to be elected. That is no guarantee of being elected.

It is a difficult one. I do not want to see democracy stifled, and that is one of my big concerns about reinventing the wheel because if we end up with people not willing to put up their hand unless they are independently wealthy we are going to have a very different political system in our country.

**The Hon. AMANDA FAZIO:** We would have hundreds of Malcolm Turnbells.

**Mr PETER DRAPER:** Well, that is a terrifying prospect, not so much the individual, I am just saying the American system of having to be independently wealthy before you would consider standing for public office is not something I would like to see encouraged.

**(The witness withdrew)**

**ARIE BAALBERGEN**, Treasurer, Christian Democratic Party, sworn and examined:

**CHAIR:** Thank you for agreeing to come before the inquiry and for being available before the scheduled time. Do you wish to make an opening statement?

**Mr BAALBERGEN:** A submission was made by the New South Wales State Director, Phil Lamb, and I really do not have anything to add to it at the moment but I am only too happy to answer any questions that the panel has got of me.

**CHAIR:** Many inquiry participants have already claimed that political donations for example from property developers result in unequal access to government and perhaps influence government policy. What is your attitude in response to those claims?

**Mr BAALBERGEN:** Probably the same as a lot of the other ones that if it does influence any decision making or if it influences any favouritism then I am totally against it. It is same with probably the Australian Hotel Association who has given very big donations. I think those things, if it can be proven that it creates favouritism within government then it is totally and utterly wrong and should not be allowed.

**CHAIR:** As you know, the Premier announced that he now supports a ban on all private donations in favour of public funding. Who should be covered by such a ban if it were a total ban? How would that ban be enforced?

**Mr BAALBERGEN:** Personally I think if people want to give to a political party as a private person in a democratic society they should have the freedom to do that so I believe we should not put a cap on that. If I want to give \$100,000 to the Christian Democratic Party I feel that I am quite happy and willing to do that if I am allowed and I would have problems if I am not allowed to do that.

**CHAIR:** You would still like to keep a provision for private donations?

**Mr BAALBERGEN:** Absolutely.

**CHAIR:** With perhaps a cap on those private donations?

**Mr BAALBERGEN:** Not necessarily because you have got people who are very rich and are willing, if they believe in a cause, that they can do so and give money accordingly.

**CHAIR:** If the committee retained private donations then we would not have to increase public funding? What is your view on the public funding aspect?

**Mr BAALBERGEN:** The public funding at the moment is capped by vote, is it not? As such that is up to the Government in relation to the capping of votes, the amount of money that is given by vote. I think that is a good exercise and I think that should stay as such. If it should be increased or decreased I do not have a particular opinion on that.

**The Hon. DON HARWIN:** The Premier has obviously made some announcements about what he thinks should be the case in future State elections. Do you think there is a case for also extending those changes to local government as well and having public funding for local government elections?

**Mr BAALBERGEN:** I believe so, yes, that should be the same.

**The Hon. AMANDA FAZIO:** In relation to the disclosure of donations, at present for federal elections donations have to be disclosed on an annual basis and for the State Government and for local government they are disclosed every four years. The committee has had a lot of evidence from people, and the Premier suggested, as has the Federal Government, that donations should be disclosed every six months so that people have a better idea of where the funding for parties is coming

from. There have even been suggestions that with the use of newer technologies that should be done basically on a real-time basis. Have you got any comments to make about that?

**Mr BAALBERGEN:** My belief and also the belief of the Christian Democratic Party, I believe, is that it should be done probably even more regular than on a half-yearly basis. I believe it could be done on a quarterly basis because I think it is important that the general public knows where donations are coming from and they can also have their own opinion and see when they are coming, and if they are very high, if they have had any influence or not. So yes, the more disclosure in governments the better it is. So every four years I think is wrong, it should probably be every quarter.

**The Hon. AMANDA FAZIO:** Currently in New South Wales if people want to have a look at where different candidates and different political parties' funding has come from there is a summary that is put on the Internet by the New South Wales Election Funding Authority but if people want to go and have a look at the full returns they have to make an appointment and go down to the Election Funding Authority and sit there accompanied by one of its officers while they manually read the documents and take notes. Do you think it would be preferable for all of that information to be available on the Internet?

**Mr BAALBERGEN:** I certainly do so.

**CHAIR:** If you support private donations how would we deal with the issue of developers trying to get some advantage by their donations? It has been suggested that donations should be prohibited from say property developers and other corporations.

**Mr BAALBERGEN:** I think sometimes it is very hard because you can have a property developer or an organisation where the private person gives money, it can be found out if that person is associated with the property or with the hotel association if they had an association, if that money is really from that person or if it is from the association. I think it is sometimes a bit hard to come to a conclusion where it comes from and if it is from an organisation but I think it is important that we know where funding is coming from, if it is associated with a particular organisation then I am sure the newspapers will find out and it will be reported, especially if it has got any influence on the Government.

**The Hon. JENNIFER GARDINER:** At the moment the threshold for public funding in New South Wales is 4 per cent. Do you see a need to change that threshold in any way, for example, for smaller parties or new entrants into the election process?

**Mr BAALBERGEN:** Our opinion is that we believe the 4 per cent is just not quite equal or right and in my opinion and in the party's opinion it should be scrapped altogether. The reason is that we have got now quite a vigorous process in relation to a party to become registered. You do have to have your 750 members and it is being checked on a regular yearly basis. If the party has got that amount of people who are willing to form a party and if they spent money at an election, then I think they should also get, according to the votes they get, the refund as such. Mind you, I do believe also that they should be able to prove that they have spent that money because if they have not spent the money, then they should not get it, but if they have spent the money on electioneering, absolutely they should get it.

**The Hon. ROBERT BROWN:** I am interested in a comment you made just then. In the party's submission the party recommends dropping it from 4.5 per cent to 2.5 per cent. Then I note you say that whatever the system you have to be able to obviously demonstrate that the money has been spent. Yet further in the submission the Christian Democratic Party argues that "perhaps a simpler and fairer alternative system is one where the funding is distributed in proportion to the votes received on a dollar per value basis rather than have the candidates trying to put together all the documentation they require to get reimbursed". Could you just reconcile the two? What is the position of the party? Is it 2.5 per cent or zero?

**Mr BAALBERGEN:** In the submission, which was put forward earlier, it was put at 2.8 per cent.

**The Hon. ROBERT BROWN:** You believe it should be that?

**Mr BAALBERGEN:** We had further discussions within our management committee and we believed that it should be reduced to zero per cent, which we believed, after further discussion, would be a more equal type of refunding exercise.

**The Hon. ROBERT BROWN:** And you believe if you did that, you would not attract a whole lot of people just simply trying to make money out of the electoral process because you have to go through a number of other hoops in terms of the number of party members, et cetera?

**Mr BAALBERGEN:** Each party needs to have 750 registered members.

**The Hon. ROBERT BROWN:** I understand now.

**The Hon. DON HARWIN:** Can I just clarify that? Provided they have 750 registered members you believe it should be zero?

**Mr BAALBERGEN:** Yes.

**The Hon. DON HARWIN:** But for, say, Independent candidates it should stay at 4 per cent, is that what you are saying?

**Mr BAALBERGEN:** That is an interesting question and to tell you the truth I have not thought that one through, so at this moment I cannot give you an answer because I would have to think about it but, yes, you have a valid point there, absolutely.

**The Hon. ROBERT BROWN:** On the next point, the maximum amount of money spent on an election, looking at your submission I cannot actually see a figure there. Could you put forward an idea as to what the CDP believes should be the maximum amount of money that a party should be able to spend on an election? You talk about your access to public funding and things like that through the ABC?

**Mr BAALBERGEN:** It is not so much funding, ABC; it is actually public time to talk. You can talk about public funding. I believe that if an organisation gets time, then it should be equal or at least they should have some time. I can understand that you have an organisation that has 40 per cent or 30 per cent of the voters, that they are able to pool a few people and get more time but I think that if the Christian Democratic Party, which has a vote of about 3 per cent or 4 per cent and sometimes a bit more, they should also have some time to voice their opinion instead of having to pay for it.

**The Hon. ROBERT BROWN:** In the last State election, according to the Australian Election Funding Authority, the public cost of the election was round about \$12.8 million. That takes into account reimbursement of the candidates, Independents and the education fund. Does the Christian Democratic Party believe that \$12 million or \$13 million is a reasonable benchmark for public funding or do you believe it should decreased or increased?

**Mr BAALBERGEN:** I am not too sure if that public funding comes just from the amount of votes.

**The Hon. ROBERT BROWN:** Yes.

**Mr BAALBERGEN:** If that is the case, then I think with inflation and things like that eventually that should go up because everything is becoming more expensive. On the other hand, as long as when we do electioneering that electioneering dollar comes from the party itself and not from the Government if they are in power at that time.

**The Hon. ROBERT BROWN:** I see what you are saying. You are talking about government expenditure?

**Mr BAALBERGEN:** Yes.

**The Hon. AMANDA FAZIO:** I wanted to ask if your party has a position on whether or not overseas donations should be allowed to political parties operating in New South Wales?

**Mr BAALBERGEN:** I do not believe so. If you have a wealthy CDP person who is temporarily living in New Zealand, for example, and that person wants to give a donation, fine, but overseas funding I think should not take place within a party's organisation.

**The Hon. AMANDA FAZIO:** Towards the end of the CDP's submission you say that the CDP is against the idea that any organisation's members should compulsorily have part of their membership fees go towards political party donations. You also say that should cover these sort of umbrella organisations like the Australian Hotels Association and registered clubs and, further, that money that is invested by shareholders in publicly listed organisations should not be donating to political parties. Which organisations do you then think should be allowed to give political donations?

**Mr BAALBERGEN:** The way it is stated here, if you take that right through to the end, then no organisation should be able to give money as such. It is a very grey area, how it is being handled as such at the moment. However, if I would be a member or let us say if I were a teacher and I were a member of the teachers union and some of those funds would go to an electioneering exercise, I would have a problem with that because I would say my money goes to be part of that organisation and not to be part of an electioneering exercise. I would like to know where my money goes and whenever I give money to anybody, I will check out what the organisation is like and the way they are doing it and then I can decide if I want to or not and if you are not given the opportunity, I think that is a problem.

**The Hon. AMANDA FAZIO:** My last question relates to the last paragraph of your party's submission where you say that any funding for political parties should not be in the form of compulsory deductions from wages or salaries. Do you also include the wages or salaries of members of Parliament in that because some political parties do have compulsory deductions from members of Parliament salaries that go back to the party administration?

**Mr BAALBERGEN:** I think when you get a salary there should be nothing compulsory about it. It should be decided by the individuals if they want to do that, yes or no.

**CHAIR:** That is the end of the questions, unless there is something you would like to add?

**Mr BAALBERGEN:** No, not really.

**CHAIR:** Is there anything you would like to see come out of the inquiry?

**Mr BAALBERGEN:** That the recommendations I have talked about be implemented, then we are all happy. I would be happy.

**CHAIR:** Thank you for giving us your time and appearing before the inquiry.

**Mr BAALBERGEN:** It is a pleasure.

**(The witness withdrew)**

**(The committee adjourned at 4.55 p.m.)**