PARLIAMENT OF NEW SOUTH WALES

REPORT

FROM THE

JOINT SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY

UPON

THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

TOGETHER WITH

THE MINUTES OF PROCEEDINGS AND EVIDENCE

FEBRUARY 1991

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Mr J.D. BOOTH M.P. (Chairman)

Legislative Council-

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The Honourable E. KIRKBY M.L.C.
The Honourable J.C.J. MATTHEWS M.L.C.
The Reverend The Honourable F.J. NILE M.L.C.
The Honourable J.W. SHAW M.L.C.
The Honourable M.F. WILLIS M.L.C.

Legislative Assembly-

J.E. HATTON M.P.
B.L. JEFFERY M.P.
J.C. MILLS M.P.
J.H. MURRAY M.P.
R.A. PHILLIPS M.P.
G. SOURIS M.P.

Project Officer
AMANDA OLSSON

Committee Secretary
DANIELLE WHITELEY

Clerk to the Committee
LES GONYE (to December 1990)
RONDA MILLER (December 1990 --)

FOREWORD

I have much pleasure in presenting the progress report on the Joint Select Committee Upon the Process and Funding of the Electoral System. This report is devoted primarily to issues regarding the operation of the existing legislation, and the second and final report, due in June 1991, will address issues relating to the disclosure of donations.

In the interim, the Committee will be travelling overseas to North America and Canada. Committee members will be meeting with an enormous number of legislators, academics, lobbyists, attorneys, commissioners and administrators, and hopes to be able to glean some further insights from these experts. This knowledge can then be studied for its applicability to the New South Wales system.

John Booth
Chairman

TERMS OF REFERENCE

Joint Select Committee upon the Process and Funding of the Electoral System

Terms of Reference of the Joint Select Committee upon the Process and Funding of the Electoral System as agreed to by the Legislative Council and the Legislative Assembly

1. That a Joint Select Committee be appointed with the following terms of reference:

    (1) To recommend to Parliament ways in which the current system of election funding could be improved, having regard to

        (a) the need for accountability as regards the efficacious, efficient and equitable use of public money;

        (b) the public interest in the integrity and impartiality of the political process;

        (c) systems of election and electoral mechanisms.

    (2) Without limiting the generality of (1), to recommend ways in which the system of election funding could be improved in relation to:

        (a) the disclosure of true sources of funding to candidates, groups and political parties; and

        (b) the disclosure of the expenditure of funds by candidates, groups and political parties.

2. That the Committee shall consist of seven Members of the Legislative Assembly and seven Members of the Legislative Council.

3. Notwithstanding anything to the contrary in the Standing Orders of either House:

(1) The Legislative Assembly Members shall be:

(a) 4 Members supporting the Government nominated by the Premier; and

(b) 3 Members not supporting the Government, of which:

(i) 2 shall be nominated by the Leader of the Opposition; and

(ii) 1 shall be an Independent Member appointed by the Assembly.

(2) The Legislative Council Members shall be:

(a) 3 Members supporting the Government nominated by the Leader of the Government in the Council; and

(b) 4 Members not supporting the Government, of which:

(i) 2 shall be nominated by the Leader of the Opposition in the Council;

(ii) 1 shall be Miss Kirkby; and

(iii) 1 shall be Revd Mr Nile.

(3) The Committee shall elect as Chairman a Member of the Legislative Assembly appointed to the Committee on the nomination of the Premier.

(4) Notwithstanding any thing to the contrary in the Standing Orders of either House, the Chairman of the Committee shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

4. That at any meeting of the Committee any seven Members shall constitute a quorum, provided that the Committee shall meet as a Joint Committee at all times.

5. (1) That the Committee have leave to sit during the sittings or any adjournment of either or both Houses; to adjourn from place to place; to make visits of inspection within the State of New South Wales and other States and Territories of the Commonwealth and overseas and have power to take evidence and send for persons and papers; and to report from time to time.

(2) That one or more members of the Committee have leave to append to a report of the Committee a statement of dissent in relation to any part of the report.

6. That should either House stand adjourned and the Committee agree to any report before the Houses resume sitting:

(1) the Committee have leave to send any such report, minutes and evidence taken before it to the Clerk of the House;

(2) the documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the Order of the House; and

(3) the documents shall be laid upon the Table of the House at its next sitting.

INTERPRETATION OF TERMS OF REFERENCE

JOINT SELECT COMMITTEE UPON THE PROCESS
AND FUNDING OF THE ELECTORAL SYSTEM

27th November, 1990

My Dear Minister,

As Chairman of the Parliamentary Joint Select Committee Upon the Process and Funding of the Electoral System, the Committee requested that I write to you seeking the advice of the Crown-Solicitor on our terms of reference.

The terms of reference as tabled in the House by the Premier, the Hon. N.F. Greiner, M.P. are as follows:

1. To recommend to Parliament ways in which the current system of election funding could be improved, having regard to:

   (a) The need for accountability as regards the efficacious, efficient and equitable use of public money.

   (b) The public interest in the integrity and impartiality of the political process.

   (c) Systems of election and electoral mechanisms.

2. Without limiting the generality of (1), to recommend ways in which the system of election funding could be improved in relation to:

   (a) The disclosure of true sources of funding to candidates, groups and political parties.

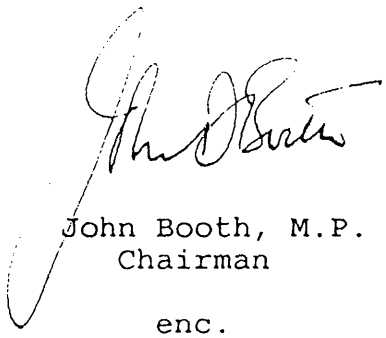
   (b) The disclosure of the expenditure of funds by candidates, groups and political parties.

The question which has been raised by the Committee members is whether the issue of elections and electoral mechanisms can be looked at as a separate issue or whether it can only be looked at in so far as it is directly relevant to "the current system of election funding".

Confusion on this point arises largely from some remarks made by the Premier in the Parliament at the time he moved the motion to establish this Committee. I attach a copy of the Premier's remarks, highlighting the specific section.

The Committee would appreciate receiving this advice as soon as possible so that we may direct our deliberations accordingly.

Yours sincerely,



John Booth, M.P.
Chairman

enc.

The Hon. J.R.A. Dowd, M.P.
Attorney-General
20th Level
Goodsell Building
Chifley Square
SYDNEY 2000

NEW SOUTH WALES
ATTORNEY GENERAL

90/7117

Mr J Booth, MP
Chairman
Joint Select Committee Upon the Process and
Funding of the Electoral System
Parliament House
Macquarie Street
SYDNEY NSW 2000

29 JAN 1991

Dear Sir,

I refer to your letter of 27 November, 1990 in which you request the advice of the Crown Solicitor upon the construction of the Committee's terms of reference.

The advice of the Crown Solicitor on the matters raised in your letter is a follows.

(i) On its face, the Resolution passed by the Assembly and agreed to by the Council confined the Committee to recommending ways in which the current system of election funding could be improved and one of the things it has to have regard to in so doing is "systems of election and electoral mechanisms".

(ii) An examination of the Debates in the Assembly does raise the possibility that the Assembly by its Resolution intended the Committee to also consider issues such as those raised in the Dickson-Cundy report on the electoral process and not just for the purpose of recommending ways of improving the current system of election funding.

(iii) An examination of the Debates in the Council suggests that the Council in agreeing to the Resolution may not have intended the Committee to also consider such issues.

(iv) As a Joint Committee only has such authority and powers as are conferred upon it by both houses concurrently, its Members are entitled to be concerned that it may not have authority to consider the additional issues referred to in the Assembly and that such lack of authority would have consequences for any exercise of its coercive powers under the Parliamentary Evidence Act 1901 in relation to such issues.

(v) While the Committee can continue to sit as a result of the Parliamentary Committees Enabling Act 1990 it may only do what it could lawfully have done had the third session continued.

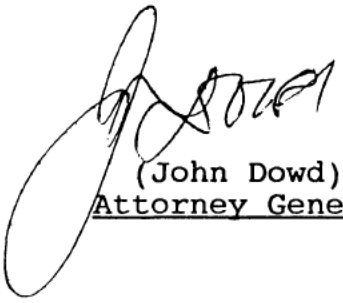
(vi) The Committee should, at present, confine its deliberations to such matters as are authorised by the ordinary meaning of the terms of reference.

(vii) Should it be asserted that the Committee should consider the additional issues referred to in the Assembly, the Committee should draw that to the attention of each House when the next session begins so that an exchange of messages can occur or appropriate instructions can be given to the Committee.

I trust the above serves to clarify your concerns as to the ambit of the Committee's deliberations.

You might also note that I have taken the liberty of advising the Premier of the Committee's uncertainty as to its terms of reference and the opinion of the Crown Solicitor upon the matter.

Yours faithfully,



(John Dowd)
Attorney General

APPOINTMENT TO THE COMMITTEE

On Thursday 3 May 1990, the Premier, the Honourable N.F. Greiner, M.P., moved a notice of motion as follows:

1. That a Joint Select Committee be appointed with the following terms of reference:

   (1) To recommend to Parliament ways in which the current system of election funding could be improved, having regard to:

      (a) the need for accountability as regards the efficacious, efficient and equitable use of public money;

      (b) the public interest in the integrity and impartiality of the political process;

      (c) systems of election and electoral mechanisms.

   (2) Without limiting the generality of (1), to recommend ways in which the system of election funding could be improved in relation to:

      (a) the disclosure of true sources of funding to candidates, groups and political parties; and

      (b) the disclosure of the expenditure of funds by candidates, groups and political parties.

2. That the Committee shall consist of eight members of the Legislative Assembly and five Members of the Legislative Council being five Members of the Legislative Assembly supporting the Government and three Members of the Legislative Assembly not supporting the Government and

two Members of the Legislative Council supporting the Government and three Members of the Legislative Council not supporting the Government.

3. That at any meeting of the Committee any seven Members shall constitute a quorum, provided that the Committee shall meet as a Joint Committee at all times.

4. That Mr Booth, Mr Jeffrey, Mr Merton, Mr Phillips, Mr Souris, Mr John Murray, Mr Mills and Mr Hatton be appointed to serve on such Committee as the Members of the Legislative Assembly.

5. That the Committee have leave to sit during the sittings or any adjournment of either or both Houses; to adjourn from place to place; to make visits of inspection within the State of New South Wales and other States and Territories of the Commonwealth and overseas and have power to take evidence and send for persons and papers; and to report from time to time."

In his speech he stated that the motion was introduced for the purpose of amending "significant" imperfections in the existing legislation as well as for the purpose of reviewing the question of public and private funding of the electoral process.

He also said that the proposal for the establishment of the Committee had been in train with the Government since late last year after discussions were held with the Australian Democrats regarding the legislation which relates to the reduction in the number of members of parliaments.

Provision was made for a minority report.

The Premier stated that he did not intend that the terms of reference be narrowly interpreted to refer solely to questions

of public and private funding of political parties, groups and candidates. Instead, he intended the terms to include such matters as those raised in the Cundy Dickson report on electoral processes.

This question occupied the Committee for a number of meetings and it was resolved to write to the Crown-Solicitor for advice on whether or not the terms of reference as adopted in the Legislative Assembly reflected the intent of the Premier. In the interim it was resolved by the Committee that their initial focus should be addressed towards public funding and if time permits, a review of the electoral process will be undertaken at a later date.

Mr Hatton then introduced a motion to amend the Premiers as follows:-

> That the question be amended by omitting all words after the word "reference with a view to inserting in lieu thereof the following words
>
> (1) To recommend to Parliament ways in which systems of election funding could be improved, having regard to:
>
> (a) the need for accountability as regards the efficacious, efficient and equitable use of public moneys and moneys from other sources, for electoral purposes;
>
> (b) the public interest in the integrity and impartiality of the political process;
>
> (c) systems of election and electoral mechanisms.
>
> (2) Without limiting the generality of (1) to recommend ways in which the system of election funding could

be improved in relation to:

(a) the disclosure of true sources of funding for candidates, groups and political parties; and

(b) the disclosure of the expenditure of funds by candidates, groups and political parties.

2. That the Committee shall consist of seven Members of the Legislative Assembly and seven Members of the Legislative Council being three Members of the Government and three members of the Opposition, and one independent in the Legislative Assembly; and three Members of the Government and three Members of the Opposition and one other Member from the minor Parties and Independents in the Legislative Council, provided that the Chairman of the Committee shall be a Government Member from the Legislative Assembly.

3. That at any meeting of the Committee any eight members shall constitute a quorum, provided that the Committee shall meet as a Joint Committee at all times.

4. That Mr Booth, Mr Jeffery, Mr Phillips, Mr Knight, Mr John Murray, Mr Gibson, and Mr Hatton be appointed to serve on such Committee as the Members of the Legislative Assembly.

5. That the Committee have leave to sit during the sittings or any adjournment of either or both Houses; to adjourn from place to place; to make visits of inspection within the State of New South Wales and other States and Territories of the Commonwealth and overseas and have power to take evidence and send for persons and papers; and to report form time to time."

Mr Hatton maintained that after the 1988 New South Wales State

election a number of issues arose which warranted further investigation such as allegations of multiple voting, cemetery votes, fraudulent enrolments', electronic voting and so on.

This amendment was negatived and the original motion by the Premier was resolved in the affirmative.

A message was then sent to the Legislative Council advising it of the resolution to establish the Committee and requesting it to appoint five members.

The Legislative Council then proceeded to debate the topic and, in particular the number of members and what parties they would be from.

The Honourable Elisabeth Kirkby moved that

> **"(1) That in paragraph (1) the word `improved' be omitted and there be inserted in lieu thereof the words `improved, with the following amendments, in which amendments the concurrence of the Legislative Assembly is requested'.**
>
> **(2) That paragraph (2) be omitted and there be inserted in lieu thereof the words:**
>
> > **`That the Committee shall consist of six members of the Legislative Assembly and six members of the Legislative Council-**
> >
> > **(1) The Legislative Assembly Members shall be three Members supporting the Government nominated by the Government of which two shall be nominated by the Leader of the Opposition and one shall be an Independent Member nominated by the Independent Members.**
> >
> > **(2) The Legislative Council Members shall be three**

Members supporting the Government nominated by the Leader of the Government in the Council and three Members not supporting the Government of which two shall be nominated by the Leader of the Opposition in the Council and one shall be a Member of the Australian Democrats.

(3) That the Chairman of the Committee be a Member of the Legislative Assembly supporting the Government.'

(3) That paragraph (4) be omitted.

(4) That after paragraph (5) there be inserted the words

`That should either House stand adjourned and the Committee agree to any reports before the Houses resume sitting-

(1) The Committee have leave to send any such reports, minutes and evidence taken before it to the Clerk of the House;

(2) The documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the Order of the House; and

(3) The documents shall be laid upon the Table of the House at its next sitting."

She stated that she had been assured by the government of its support for these amendments.

The Honourable E P Pickering then stated that he wanted to amend the motion to provide for

> "seven members from each Chamber so that the two parties represented by members on the cross benches in this house [the Legislative Council] will be properly represented on this Committee".

The Legislative Council then sent a message to the Assembly advising that it proposed a number of amendments relating to the Committee. These amendments were agreed to by the Legislative Assembly and authority was also given by both houses for

> "one or more members of the Committee to append a statement of dissent in relation to any part of the report."

COMMITTEE'S VIEW

The terms of reference for this Committee as detailed on page 4 spell out quite clearly that this Committee is not looking solely at the issue of campaign donations.

Its mandate is much wider and indeed was felt to include a number of other issues relating not only to election funding but also to issues of electoral processes and mechanisms.

Furthermore, the Committee has recognised the importance of reviewing the current situation in regard to disclosure of donations. Their means of approaching this however was resolved at an early Committee meeting where a list of issues raised in the submissions was presented to the Committee for review.

This list of issues was as follows.

1. Disclosure

   (a) Funds received through interstate or national elements to a party or group.
   (b) Donation of "services".
   (c) Anonymous donations.
   (d) "Friends of" donations.
   (e) State Electorate Councils.
   (f) Advertising firms acting as agencies and discounting.
   (g) Nominee bodies and incorporated or unincorporated bodies established as conduits for other purposes.
   (j) Candidates receiving "donations" after polling day with the purpose of not having to disclose them if not standing at the next election.
   (k) Loans.
   (l) Time period for disclosure.
   (m) Disclosure by third parties.

(n) Disclosure by local government.
(o) Penalties.

2. Voting

(a) Electronic voting.
(b) Compulsory voting.
(c) Right to vote for migrants
(d) First-past-the-post versus preferential

3. Politicians

(a) Retirement on non-performance
(b) Prerequisites

4. Miscellaneous

(a) Composition of EFA
(b) Entitlement formula
(c) Public broadcasting
(d) Free delivery of one piece of literature

As the Committee felt it would be more logical to review the existing situation prior to any major legislative upheaval the Committee resolved to address the current operations and machinery of the legislation ie. points 4 (a) and (d).

Also, once a fuller understanding of the current problems was reached the Committee would be able to address further issues with this background of knowledge rather than of preconceptions.

The remaining two categories ie. (b) and (c) were felt to be beyond the current terms of reference and, as the Committee is mindful of the Premier's desire to introduce legislation as soon as possible, neither of these two areas will be addressed until recommendations on disclosure are presented to the Parliament.

Finally, upon researching the area through numerous sources - State and National libraries, Parliamentary libraries, other similar committees such as the Electoral and Administrative Review Commission in Queensland and the Joint Standing Committee on Electoral Matters in Canberra, the Election Funding Authority, the State Electoral Office and the Australian Electoral Commission it became apparent that the information available on the subject of donations was either descriptive or outdated. Gathering up-to-date information became virtually impossible despite the use of office equipment such as facsimile machines because the information is scarce - there have been hardly any variations on systems of funding. Most information on the subject is devoted to the pros and cons of the subject rather than to solutions or suggestions.

The solution and one which has been adopted by previous Committees such as the Quinn Committee and indeed every journalist covering any issue of import is to go and ask questions of people who are in a position to provide the Committee with the answers to these questions.

Quite obviously, the North American political system is an extremely well developed situation in both positive and negative ways.

They have an unbelievable diversity of organisations devoted to the subject such as law firms specialising in the subject of political laws, companies which plot contributions to voting trends, political action committees, commissions on government integrity, on corruption, on fair political practices and so on.

The United States system has also been racked by recent allegations similar to those surrounding the original ICAC recommendations - ie. the "Keating Five". Not to take advantage of this wealth of information would not only be remiss but also foolish.

The Canadian system, although not as developed, is currently in the process of conducting a Royal Commission into the subject and the Committee felt that the similarities between the two systems would prove fruitful for both countries in trying to come to grips with a detailed subject.

Also, whilst the actual political system in Canada is confederate rather than federal - similarities in the division of powers between the tiers of government may also prove useful to the Committee as much debate has occurred as a result of written submissions and verbal discussions as to the possibility of a national scheme which would eliminate inter-state transfers of monies.

OTHER PROBLEMS ENCOUNTERED

Because of the nature of the topic under review a number of problems became apparent at an early point.

First, the subject matter is itself a complicated one which, by nature of its content interests few people. It is a specialised subject and tends to only capture the public interest when a breach of some sort occurs.

Second, this problem of the topic being specialised became apparent when the Committee first began advertising for submissions. The response was dismal. Out of the nine submissions received, only the Democrats, the National Party and the ALP addressed the issues correctly. The Liberal Party did not put in a written submission. The remaining submissions were not relevant to the Committee in that they addressed peripheral issues which although related to elections and electoral mechanisms were not related to the subject of election funding. The Committee does however appreciate the work and research put into them by the authors and in no way intends to disparage these submissions.

The Committee then resolved to write to as many people as possible that had expressed an interest in the subject - academics, registered political parties and journalists.

The response was once again disappointing, particularly in light of the fact that it is very often these people who are first to criticise any breaches yet when offered the opportunity to suggest amendments or improvements none came forward with any suggestions.

The solution was to hold public hearings into the subject. The Committee resolved to divide the subject up into a number of distinct areas and hold a series of public hearings. The first which was held on Tuesday 18 December was to address problems

in the current legislation only.

The second set of public hearings would address the issue of donations and the disclosure provisions - whether anonymity should be allowed, loopholes such as those disclosed in the Independent Commission Against Corruption (ICAC) report into North Coast land Development and so on, (see p 25).

A progress report would be presented to the Parliament and after the Committee had conducted its overseas investigations a final report would be tabled.

Third, problems arose in the fact that the inquiry was being carried out by the people who are affected by it. Election finance is a topic close to every politicians heart and because of the expensive nature of political campaigning, it is not an area that all politicians are keen to tighten.

Fourth, if people are aware of the corruption within the political sphere, then analysing it further, it may be said, publicises the fact that the system is "bent" and paving the way for more of the same - "everyone else is doing it". The question is whether this is a form of legitimisation of the present system.

Finally, a question which has been raised relates to the role of political contributions and donations within the party structure. If a person can afford to contribute $1 million to a political party, group or candidate then this his/her democratic right. Yet if this results in a group of people being disenfranchised from the political system as a result of the donation then the result is a definite bias in the electoral system. It may be that people without the means to make donations of any substantial amount are denied the ability to make their voices heard as much as those with money to donate. No one can deny that money affects the voting trends - if this was not so political parties would not seek donations,

large amounts of money would not be spent on advertising and media time would not be purchased.

As an American judge stated when he referred to US elections and campaign finance

> "A latter-day Anatole France might well write after observing American election campaigns, 'The law, in its majestic equality allows the poor as well as the rich to form political action committees to purchase the most sophisticated polling, media and direct mail techniques, and to drown out each other's voice by overwhelming expenditures in political campaigns'."

(Stern, 1988, p xiv.)

The problem however is the source of this money.

ELECTORAL REFORM TO DATE

> "At the beginning of the 20th Century Texan lobbyists could get more or less what they wanted so long as they kept politicians supplied with the three Bs: beefsteak bourbon and blondes. Things have not changed all that much," (The Economist, 26 Jan, p 30)

So begins an article in a recent edition of the Economist. Indeed, a similar analogy was raise by Ernie Chaples when he stated that electoral reform and the desire for subsidies has been brought about by a triality of Cs - "cost, corruption and (fair) competition.

Dr Chaples referred to the arguments raised by the Manitoba Law Reform Commission which stated that a system of uncontrolled political financing is a problem because:

> "(a) it is fast becoming exorbitantly expensive for both candidates and parties to contest elections with the result that politics could become the playground of the rich individual and of large, well organised interests of various kinds;
>
> (b) it is easier and more lucrative to solicit funds from a few wealthy donors than to tap the "little man", a situation which can lead to the debasing of the high trust of public office through the return of otherwise unmerited and exclusively privileged favours and patronage; and
>
> (c) the most lavishly endorsed candidates and parties in an election stand a better chance of winning than those who may be of equal or better political merit but lack private fortunes or generous sympathisers."

(Chaples, 1981, p 5).

Thus the dilemma - How to maintain the distinction between politician and fund raiser whilst at the same time recognising the fact that increasing election campaign costs are placing candidates and politicians under increasing pressure.

Indeed Stern goes so far as to say that

> "No politician who knows the identity and business interests of his campaign contributors is ever completely devoid of knowledge as to the inspiration behind the donation",

(Stern, 1988, p 154).

The problem however in addressing this dilemma is to avoid the law of unintended consequences and ensure new loopholes and future risks are minimised.

In New South Wales a solution was proffered by the then Premier, the Honourable N K Wran QC MP when he introduced a motion to the Legislative Assembly appointing a Joint Committee to inquire and make recommendations on a system of public funding of elections.

That Committee (herein referred to as the Quinn Committee) realised the problems surrounding the introduction of such a system and, in their final report in 1980, they referred to a number of matters of principle.

That is

> "The responsibility of the Committee did not include any decision as to whether this [the introduction of public funding] was desirable or not... The Committee does not intend to state the values of public fundings or relate the reasons that so many other countries found compelling prior to their legislation for public funding." (p xi)

Also,

> "Any alteration to the electoral landscape has traditionally brought forth opposition, including predictions of imminent danger to the democratic process - according to how the democratic process was then defined by the hegemonic ruling class group in that society," (p xi)

And

> "the Committee is not dissuaded in its recommendations by the objection that some members of the community regard funding of parties, whose philosophies they hold as anathema, is somehow a breach of their basic democratic rights. There are many institutions, causes and programmes funded by the State that are anathema to one section of the community or another. For so long as those institutions, causes or programmes are within the law of this State, it is both competent and proper for the Government to set aside public funds for their benefit. For so long as political parties are within the law, it is appropriate and proper for the Government to take whatever action it decides to assist them," (p xii)

Thus the approach by the Quinn Committee was to look for a system of public funding - to look at whether or not public funding would achieve the desired aim of minimising the "sleaze" factor which was tainting the political processes in New South Wales.

The problem which becomes more and more apparent is that, contrary to popular opinion, laws surrounding election finances are not easily prescribed.

For example since the introduction of public funding most systems have resulted in a proliferation of the three Ds -

donations have increased, disclosure provisions are openly flaunted and dishonesty (if not of the actual letter of the law then at least the spirit) has flourished.

The Texas system (which has a number of similarities to New South Wales in that there are no limits on campaign contributions as long as the contribution is disclosed, no limits on spending and a lack of power in regard to enforcement) was recently racked by a scandal known colloquially as "Chickengate". Apparently a chicken magnate started handing out $10,000 cheques during a debate on the floor of the State Senate and, although the behaviour was quite legal, it sparked an uproar over the "influence peddling" widespread throughout the political system (The Economist, 26 Jan, 1991, p 30).

The point however is that despite the introduction of public funding this has not minimised the problem. In some cases it has helped it as candidates and politicians are receiving money from a variety of sources and the idea that this can be resolved simply by legislation is a political nonsense.

In other words, if the legislation in New South Wales is amended to ensure all donations are fully disclosed and reported on a periodic basis then it begs the question as to how to prevent a situation where new loopholes are created. The further the legislation is regulated and tightened the more difficult it will be to discover breaches as donations will inevitably be more elusive. For example, rather than the simple transaction which occurred with Dr Munro's donations to the National Party disclosed in the recent ICAC report on North Coast Land Development it is not difficult to envisage donations of services, donations such as use of equipment, offers of training for staff, indeed even the proliferation of honoraria or political action committees such as in the United States.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Thursday, 21 June, 1990

At Parliament House, Sydney, at 12 Noon

MEMBERS PRESENT

Legislative Assembly	Legislative Council
Mr Booth	Mr Bull
Mr Hatton	Ms Kirkby
Mr Jeffery	Mr Matthews
Mr Mills	Revd Mr Nile
Mr J.H. Murray	Mr Willis
Mr Phillips	
Mr Souris	

Mr Leslie Gönye, Clerk-Assistant (Procedure), was also in attendance.

Apologies were received from the Honourable J.W. Shaw, Q.C., M.L.C., and the Honourable M.R. Egan, M.L.C.

Resolved, on motion of Mr Souris, seconded by Mr Mills:

That the minutes of the previous meeting, as circulated, be agreed to.

The Committee deliberated about the advertisement for the positions on the secretariat.

Resolved, on motion of Mr Phillips, seconded by Mr Souris:

(1) That the Chairman cull the applicants with the selection panel.

(2) That the Chairman, a senior Opposition Member and Ms Kirkby be the Members' panel to interview the short list of applicants.

The Committee deliberated about the draft advertisement calling for submissions.

Resolved, on motion of Mr Bull, seconded by Mr Souris:

That the draft advertisement calling for submissions, as amended, be approved.

The Committee deliberated further about the call for submissions.

It was agreed that:

(1) The closing date for submissions be 31 August 1990.

(2) The advertisement be placed in -

* The Sydney Morning Herald
* The Age
* The Austrtalian

(3) The advertisement, with an appropriate covering letter, be sent to -

* Heads of University Schools/Departments of Government/Political Science.

* Interested groups and persons who made submissions to both the earlier Commonwealth and New South Wales Parliamentary Committees.

The Committee deliberated about a press release calling for submissions.

It was agreed that when the press relaease is approved it be forwarded on a Tuesday to Members of the Committee for distribution to electorate newspapers and then forwarded the following Tuesday to the Premier's Department for simultaneous release statewide.

Resolved, on motion of Mr Mills, seconded by Mr Jeffery:

That the continued discussion on press statements from the Committee be postponed to the next meeting.

It was agreed that the Committee be known colloquially as the "Electoral Reform Committee".

The Committee adjourned at 1.00 p.m.

* * * *

The next meeting of the Committee will be at 1.00 p.m. on 13 September, 1990, in Committee Room 1136.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Wednesday, 10 October, 1990

At Parliament House, Sydney, at 1.00 p.m.

MEMBERS PRESENT

Legislative Assembly	Legislative Council
Mr Booth	Mr Bull
Mr Hatton	Mr Egan
Mr Jeffery	Ms Kirkby
Mr Mills	Revd Mr Nile
Mr J.H. Murray	Mr Shaw
Mr Phillips	Mr Willis
Mr Souris	

An apology was received from the Honourable J.C.J. Matthews, M.L.C.

Resolved, on motion of Mr Souris, seconded by Mr Mills:
That the Minutes of the previous meeting, as circulated, be agreed to.

The Chairman informed the Committee of the selection of the Project Officer and introduced her to the Committee.

Entries number 20, 22 and 24 of the Minutes of the Proceedings of the Legislative Council, dated 15 August, 1990, and entries number 7 and 41 of the Votes and Proceedings of the Legislative Assembly, dated 5 September, 1990, referring the Independent Commission Against Corruption Report on investigation into North Coast Land Development to the Committee, were read by the Clerk and noted by the Committee.

Entry number 27 of the Votes and Proceedings of the Legislative Assembly, dated 5 September, 1990, entry number 2(8) and entry number 13 of the Minutes of the Proceedings of the Legislative Council, dated 11 and 12 September, 1990, respectively, adding statements of dissent to the Committee terms of reference, were read by the Clerk and noted by the Committee.

The Committee noted correspondence from the Premier, dated 3 August, 1990, bringing the attention of the Committee to the recommendations in relation to election funding matters contained in the ICAC Report on investigation into North Coast Land Development.

Ms Kirkby, pursuant to notice, moved, seconded by Mr Hatton:

> That the Chairman of the Joint Select Committee upon the Process and Funding of the Electoral System write to Commissioner Ian Temby of the Independent Commission Against Corruption, requesting the assistance of the Commission and the Corruption Prevention Unit of the Commission in the Committee's consideration of the accountability for, "and integrity of:"
>
> (a) systems of election and electoral mechanisms;
>
> (b) the system of election funding, and the disclosure of true sources of an expenditure of funds;
>
> and to recommend appropriate means of preventing the corruption of the electoral process and system of electoral funding, and/or to prevent the possibility of corrupt conduct, and/or to prevent the creation of conditions conducive to corrupt conduct.

Discussion ensued.

Whereupon Mr Hatton moved, That the question be amended by leaving out all words after "and integrity of:" with a view to inserting the following words instead thereof -

> "(a) systems of election;
>
> (b) the system of election funding, and the disclosure of true sources of and expenditure of funds;
>
> to prevent the creation of conditions conducive to corrupt conduct."

Question - That the amendment be agreed to - put and passed.

Question proposed, That the motion, as amended, be agreed to.

Discussion continued.

Question put and negatived.

The Committee deliberated.

Resolved, on motion of Mr Bull, seconded by Mr Souris:

> That the Chairman write to Commissioner Temby forwarding a copy of the advertisement calling for submissions, together with the terms of reference of the Committee, and invite the Independent Commission Against Corruption to make a submission.

Resumption of consideration, from Thursday, 24 May, 1990, of the motion:

> That press statements concerning the Committee be made only by the Chairman after approval in principle by the Committee or after consultation with Committee members.

Question put and passed.

The Committee deliberated about the terms of reference of the Committee.

The Committee adjourned at 2.03 p.m.

* * * * *

The next meeting of the Committee will be at 1.00 p.m. on Wednesday, 24 October, 1990, in Committee Room 1136.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Wednesday, 24 October, 1990

At Parliament House, Sydney, at 1.00 p.m.

MEMBERS PRESENT

Legislative Assembly	Legislative Council
Mr Booth	Mr Bull
Mr Hatton	Ms Kirkby
Mr Mills	Mr Matthews
Mr J.H. Murray	Mr Shaw
Mr Phillips	Mr Willis
Mr Souris	

Apologies were received from Mr Jeffery, M.P., the Honourable M.R. Egan, M.L.C. and the Reverend the Honourable F.J. Nile, M.L.C.

Resolved, on motion of Mr Souris, seconded by Mr Murray: That the Minutes of the previous meeting, as circulated, be agreed to.

Copies of Legislative Assembly Standing Orders (numbers 341 to 386) concerning Select and Standing Committees and Witnesses having been previously distributed, the Committee deliberated.

The Legislative Assembly Parliamentary Debate on the establishment of the Joint Select Committee having been previously distributed the Committee again deliberated about the terms of reference.

Further consideration of the interpretation of the issues of electoral systems as affecting electoral funding and electoral systems per se was postponed to the next meeting.

An overview and summary of the submissions having been previously distributed, the submissions were then distributed to Committee members.

The Clerk informed the Committee that the Chairman's letter inviting a submission from Commissioner Temby of the ICAC was sent on Thursday, 18 October, 1990.

The Committee deliberated.

It was agreed that the Chairman prepare a media release calling for further submissions.

It was also agreed that the Chairman and Project Officer prepare a schedule of both prospective witnesses and issues to direct the deliberations of the Committee.

The Committee adjourned at 1.49 p.m.

* * * * *

The next meeting of the Committee will be at 1.00 p.m. on Wednesday, 14 November, 1990, in Committee Room 1136.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Wednesday, 14 November, 1990

At Parliament House, Sydney, at 1.00 p.m.

MEMBERS PRESENT

Legislative Assembly	Legislative Council
Mr Booth	Mr Bull
Mr Hatton	Mr Egan
Mr Jeffrey	Ms Kirkby
Mr Mills	Mr Nile
Mr J.H. Murray	Mr Willis
Mr Souris	

Apologies were received from Mr Phillips M.P., the Honourable J.C.J. Matthews, M.L.C. and the Honourable J.W. Shaw, Q.C., M.L.C.

Resolved, on motion of Mr Souris, seconded by Mr Murray: That the Minutes of the previous meeting, as circulated, be agreed to.

Danielle Whiteley, the Committee Stenographer, was introduced to Committee Members.

Resolved, on motion of Mr Willis, seconded by Mr Murray: That the Chairman write to the Crown Solicitor to clarify the interpretation of the Committee terms of reference.

The Chairman circulated a draft media release which invited further submissions to the Committee.

The Committee discussed the draft media release.

Schedules of prospective witnesses and issues were then distributed to Committee members.

The Committee discussed a possible timetable of action. Members then canvassed possible meeting dates.

The Committee adjourned at 1.45 p.m.

* * * *

JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Friday, 30 November, 1990

At Parliament House, Sydney, at 10.00 a.m.

MEMBERS PRESENT

Legislative Assembly	Legislative Council
Mr Booth	Mr Bull
Mr Hatton	Mr Willis
Mr Jeffery	
Mr Mills	
Mr Souris	

Resolved, on motion of Mr Booth, seconded by Mr Willis, that a study tour to North America and Canada be undertaken for three weeks from 11 February 1991. That a second study tour be conducted to Europe for a tentative date of June 1991.

Resolved, on motion of Mr Souris, seconded by Mr Jeffrey, that six Committee members and the Chairman and Project Officer take part in the America/Canada tour. That seven Committee members and the Chairman and Project Officer take part in the European tour.

Resolved, on motion of Mr Jeffery, seconded by Mr Souris, that a decision be made urgently in order to take advantage of a 30% discount offered only until 30 November 1990.

Resolved, on motion of Mr Bull, seconded by Mr Mills, that the delegation consist of three government supporters and three non-government supporters plus the Chairman and the Project Officer.

Resolved, on motion of Mr Bull, seconded by Mr Hatton, that attendees for the America/Canada study tour should be:

Mr Booth (Chairman)
Amanda Olsson (Project Officer)

Mr Jeffrey
Mr Souris
Mr Willis

Mr Murray
Mr Egan
Ms Kirkby

The Committee adjourned at 10.18 p.m.

* * * * *

WRITTEN SUBMISSIONS RECEIVED

1.	Critical Economic, Social and Political Watchdog Organisation	30.07.90
2.	Australian Community Action Network	20.08.90
3.	A K Mallise	27.08.90
4.	Australian Labor Party	03.09.90
5.	New Australian Republican Party New South Wales State Assembly	05.09.90
6.	Australian Democrats	05.09.90
7.	Ivor Jones	11.09.90
8.	F C Sheldon-Collins	18.09.90
9.	National Party of Australia	17.12.90

MINUTES OF EVIDENCE

TAKEN BEFORE

THE JOINT SELECT COMMITTEE UPON THE
PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

At Sydney on Tuesday, 18th December, 1990

The Committee met at 8.50 a.m.

PRESENT

Mr J. D. BOOTH (Chairman)

Legislative Council	Legislative Assembly
The Hon. R. T. M. BULL	Mr J. E. HATTON
The Hon. M. R. EGAN	Mr J. C. MILLS
The Hon. ELISABETH KIRKBY	Mr J. H. MURRAY
The Hon. J. C. J. MATTHEWS	Mr R. A. PHILLIPS
Reverend the Hon. F. J. NILE	Mr G. SOURIS
The Hon. M. F. WILLIS	

CHAIRMAN: I wish to make a few remarks which I shall repeat as each witness appears before us today. After a certain amount of media atténtion over the weekend, I wish to clarify what seems to me to have been misunderstood by people in some circles. It was always the intention of this inquiry to deal with matters relating to the mechanics of the Electoral Funding Act. Early next year we intend to deal with matters relating to the disclosure of donations. Next year, as time permits we intend to deal with matters relating to reforms to the electoral system. So media speculation about whether people did or did not want to appear today to discuss donations to political parties is incorrect and not particularly helpful. In dealing with the mechanical side of the Electoral Funding Act and suggested changes to it, we will proceed with hearings today and receive evidence from people who have either made submissions to us or who want to make submissions or discuss the matter with us.

It probably will not be necessary to have further hearings before we proceed to produce a draft report, but we may have a clearer idea of that at the end of the day. The Committee intends to produce a draft report by early February and to circulate that report to Committee members, people who will appear before us today, and people who have made submissions on these aspects. We will seek comments from them with a view to producing by early April next year a final report which will be submitted to Parliament in the first half of next year.

PAUL FRANCIS TERRETT, Insurance Manager, 4/10 Dunkirk Avenue, Kingsgrove, affirmed and examined:

CHAIRMAN: Did you receive a summons issued under my hand to attend before this Committee?—A. Yes.

Q. The Committee has received a submission from the Australian Democrats. Is it your wish that the submission be included as part of your sworn evidence?—A. Yes. The submission reads:

AUSTRALIAN DEMOCRATS

New South Wales Division
P.O. Box 1257
Crows Nest, NSW 2065
Phone: (02) 436 0977

Joint Select Committee of the Legislative Assembly

and Legislative Council upon the

PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Submission

from

AUSTRALIAN DEMOCRATS (NSW DIVISION)

100% Australian Recycled Paper

INTRODUCTION

This document has been written in response to the public call for submissions published in the Sydney Morning Herald on the 21 July, 1990.

The Submission is divided into four parts. Section One is a case for why there should be full and complete disclosure of all monies received and monies expended by any political party, group or individual. This will also include a discussion of why there should be public funding for elections. Section Two (Application) outlines the preferred options of the Australian Democrats (NSW Division) for funding and disclosure. Section Three discusses enforcement, offences and penalties. Section Four assesses general issues for consideration by the Committee.

KARIN SOWADA
NSW Campaign Director

5 September 1990

SUMMARY OF RECOMMENDATIONS

1. That s.6(b) of the Election Funding Act 1981 be amended to provide for the appointment of the State Auditor-General or his deputy, as a member of the Election Funding Authority, replacing the member appointed by the Premier. (see 2.2.3)

2. That s.6(c) of the Election Funding Act 1981 be amended to provide for the appointment of the I.C.A.C. Commissioner or his Deputy, as a member of the Election Funding Authority, replacing the member nominated by the Leader of the Opposition in the Legislative Assembly. (2.2.3)

3. That, consequent upon changes to the composition of the Election Funding Authority, consideration be given to amending or repealing s.8-14, 19 and 20 of the Election Funding Act 1981. (2.2.3)

4. That s. 79(7A)(c) and 81F(3) of the Parliamentary Elections and Electorates Act 1912 be amended to provide for a minimum vote of 4.0% of first preferences to secure the return of deposits and eligibility for public funding payments for the Legislative Assembly and Legislative Council and eligibility for public funding payments. (2.3.4)

5. That s. 59, 60 and 61 the Election Funding Act 1981 be amended to provide for payments to parties, groups and independents consequent upon election of a candidate to the Legislative Council. (2.3.6)

6. That s.57, 62 and 67 of the Election Funding Act 1981 be repealed, and replaced with an entitlement formula based on a fixed dollar value for every first preference vote received for the Legislative Assembly and Legislative Council; the value to be determined in accordance with entitlements available under the Commonwealth Electoral Act 1918. (2.3.8)

7. That consideration be given to banning all paid electronic political advertising, and replacing it with free air time for candidates and parties. (2.3.13)

8. That consideration be given to the introduction of free delivery of one piece of literature through Australia Post from candidates to households in their electorate, to supplement public funding. (2.3.13)

9. That the amount of $ 200 be deleted from s.55.(1)(a)(iii) of the Electoral Funding Act 1981. (2.3.14)

10. That s. (i) "expenditure on audit fees incurred as a result of complying with this Act" be added to s.88 of the Electoral Funding Act 1981. (2.3.14)

11. That s.87 of the Electoral Funding Act 1981 be amended to provide for full disclosure by political parties and candidates, their holding companies and other organs, of all income, either financial or in kind. (2.4.1)

12. That s.86 of the Electoral Funding Act 1981 be amended to provide for mandatory disclosure of the known original source of all external contributions to political parties, candidates and groups, either financial or in kind. (2.4.3)

13. That s.86(2) of the Electoral Funding Act 1981 be amended to provide for mandatory disclosure of the known original source of contributions to political parties, candidates and groups, either financial or in kind. (2.4.3)

14. That s.83 of the Electoral Funding Act 1981 be amended to provide for the requirement that registerd political parties and Independent Members of Parliament must furnish declarations of income and expenditure on an annual basis, such declarations to be made no later than 30 days after 30 June. (2.4.5)

15. That s.84 and 85 of the Electoral Funding Act 1981 be amended to provide for an extension of the disclosure period for political donations for candidates and groups from the day after the last general election to 120 days after polling day. (2.4.6)

16. That s.84 and 85 of the Electoral Funding Act 1981 be amended to extend the time during which official agents of candidates and groups can submit their declarations of contributions and expenditure from 90 days to 120 days. (2.4.6)

17. That the Election Funding Act 1981 be amended to provide for the submission of returns by broadcasters, printers and publishers. (2.4.7)

18. That a public register of lobby groups and their clients be established. (2.4.15)

19. That the Election Funding Act 1981 be amended so as to provide for the disclosure of all forms of income and expenditure by third parties. (2.4.15)

20. That the Election Funding Authority keep a register of third parties and include its current listing in reports under s. 107 of the Electoral Funding Act 1981. (2.4.15)

21. That the Electoral Funding Act 1981 be amended to give

the Election Funding Authority and its officers an unfettered right of entry and inspection to conduct spot audits on the financial records of any party, group or candidate. (3.2.3)

22. That s. 96 Electoral Funding Act 1981 be amended to make the candidate liable for failure to lodge a declaration as required by section 83. (3.3.2)

23. That the Electoral Funding Act 1981 be amended to make it an offence for any person to give false or misleading information about any contribution or donation to a political party, group or candidate. (3.3.5)

24. That the State Electoral Office conduct a Seminar for party officials and Independent MP's after changes to electoral laws have been enacted. (4.1.3)

25. That the Local Government Act be amended so as toprovide for full disclosure of income and expenditure by candidates in Local Government elections. (4.2.2)

SECTION ONE

PRINCIPLES

1.1 Disclosure of Income

1.1.1 The Westminster democratic tradition is built upon the foundation that all citizens, groups and corporations are equal in their dealings with and access to government. Anything that undercuts that foundation undercuts and corrupts our democratic system.

1.1.2 The New South Wales political process and electoral process has been rocked by a number of cases which has seriously undermined public confidence in the principle of equality of access to government and the decision-making process. This has occurred by way of individuals attempting to link political donations to private business dealings. Devices have been used to deliberately circumvent the disclosure provisions of the Electoral Funding Act 1981, in order to hide the source of those donations.

1.1.3 The comment of Independent Commission Against Corruption (hereafter referred to as the I.C.A.C.) Assistant Commissioner Roden that;

> "The law that allows secret political donations, creates conditions conducive to corrupt conduct."[1]

is indeed self evident.

1.1.4 Further, any law that allows secret political contributions will lead to the destruction of confidence in the democratic process, both of the electoral system and of the process of government. By ensuring that all income, both financial and in kind, both for administrative and electoral purposes are declared and placed upon the public record, protection will be established against the "buying" of government or of influence over government.

1.1.5 The citizens of New South Wales can not be allowed to continue to consider, as Dr Munro did, that by making donations, easier access can be gained to government. The actions outlined by the I.C.A.C. demand action.

> "In 1988 and 1989, political donations were blatantly used by Dr. Munro in a bid to obtain favourable treatment

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[1] Independent Commission Against Corruption Report on Investigation into North Coast Development (Sydney, 1990) p. 527

from the Government of the day."[2]

1.1.6 Those who oppose the disclosure of all contributions basis their opposition on either grounds of privacy, or that they may lay themselves open to persecution by persons with different opinions. As others have stated, (our emphasis);

> "These concerns were countered by **arguments which stressed that a financial contribution is a public rather than a private act** because of its goal of influencing public opinion and voting patterns. The publicity aspects of disclosure further sheds light on "donations-for-favours" and gives parties and candidates a ready answer to charges of this nature. In fact, disclosure fosters public confidence in the political system and has had the effect of broadening the base of partisan donations."[3]

1.1.7 The results of I.C.A.C. investigations into North Coast development reveal that the case for **not** disclosing political contributions rests less on the grounds of privacy, and rather more on that of self-interest. The public has a right to know who is funding political activity in NSW. Governments and political parties who discharge their duties and functions with honesty and integrity should have nothing to fear from a system which requires full disclosure of financial contributions.

1.1.8 Third parties (defined here as organisations other than political parties, groups or independents) have become increasingly involved in the political process, by lobbying members of parliament, or supporting candidates either publicly or covertly. The need has arisen for greater regulation of their activities, especially in relation to financial relationships with political parties and the campaign process in general.

1.1.9 In addition, a need clearly exists for greater scrutiny of electoral activities at a Local Government level. In the words of Commissioner Roden;

> "Elected members of local Councils can be subject to the same pressures and the same temptations as their counterparts in State Parliament."[4]

1.1.10 Local Councils are directly responsible for building

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[2] Ibid p.7

[3] Commission on Election Finances A Comparative Survey of Election Finance Legislation (Ontario, 1988) p. 11

[4] I.C.A.C. Report op. cit. p.536

applications, planning by-laws and decisions that affect local investment opportunities and the quality of life of local residents. The potential for corrupt conduct is perhaps greater, given the nature of the decisions and responsibilities of Councils, and the fact that for many citizens, the first and only direct contact with any tier of Government is with Municipal officials.

1.1.11 Recent allegations of substantial donations by developers to Sydney City Council's Civic Reform group, and revelations about the activities of some Local Government officials, demand attention and reform. There no reason why Local Council election activities should be exempt from disclosure laws.

1.2 Public Funding

1.2.1 Over the last ten years, the cost of running election campaigns has becoming increasingly burdensome for political parties and candidates.

1.2.2 Recent investigations by the Federal Joint Standing Committee on Electoral Matters found that television advertising costs alone had increased by nearly 100% between the 1983 and 1987 Federal Elections. They concluded that;

> "...the democratic process has become increasingly dependent on who can raise the substantial funds needed to buy advertising on the electronic media - and in particular, television."[5]

1.2.3 The predominance of television in modern campaigns means that only those parties and candidates who have access to substantial funds can afford it in NSW. Moreover, the increasing tendency of parties to use direct mail to target voters - an extremely expensive but successful campaign method - also means that some candidates can 'buy' more access to voters. This raises serious questions about equality of access to the electorate by all candidates, and the right of voters to cast an informed vote.

1.2.4 Campaign activity should not depend wholly on the financial resources of a candidate - participation in the political process should be open to all citizens in NSW, rich and poor. We should not seek to emulate the United States, where the sheer cost of running for political office, especially the Federal Senate, largely restricts this activity

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[5] Joint Standing Committee on Electoral Matters Report No. 4 Who pays the piper calls the tune - minimising the risks of funding political campaigns Inquiry into the Conduct of the 1987 Federal Election and 1988 Referendum. (Canberra 1989) p. 25

to individuals of great personal wealth.[6]

1.2.5 Public funding is preferable to several other systems which have been suggested in Australia and overseas, such as dollar-for-dollar matching funds and tax deductibility of donations. Both these schemes rely on a party or candidate mustering significant support amongst more affluent voters who pay tax and are in a position to write off part of their income. Other voters such as pensioners, the unemployed, people on fixed incomes and those receiving no taxable income (i.e. dependent spouses) do not have this luxury, although they may just as strongly support a party or candidate. Clearly, attempting to fund political activity through the tax system favours those who can afford it.

1.2.6 Only a system of public funding of election campaigns can ensure an element of equity and access to the electoral process. The notion of 'public funding' could also include the provision of free time to political parties and candidates on commercial television networks, to help arrest the cost of campaigns. This was suggested by the Joint Standing Committee on Electoral Matters in its most recent report[7]. It could also include provision for an official mail-out, organised by the State Electoral Office, of one piece of literature from all candidates, posted out to all electors in the last week of the campaign. This is official policy of NSW Division of the Australian Democrats.

1.2.7 Public funding can help reduce the dependence of parties and candidates on external donations. The temptation and risk of corrupt fundraising practices can be thereby reduced.

1.3 Disclosure of Expenditure

1.3.1 Political parties and candidates who wish to receive money from the public purse for campaign expenditure must be willing to fully itemise and document their costs. Full disclosure of expenditure is a necessary part of public accountability for public funds.

1.3.2 Refusal to accept public funds does not however exempt a party, group or candidate from the need for full and

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[6] In 1986, candidates for the US Senate spent an average of US $ 2,900,000. Most candidates receive very little direct financial support from their own parties (in 1984 it amounted to only 1% of all contributions); much of their time during and outside campaign periods is spent raising funds. David L. Boren The Congressional Digest 66 No.2 (1987) p.44ff

[7] Joint Standing Committee on Electoral Matters Report No. 4 op. cit. p. 6ff

complete disclosure. The position and responsibility of political parties in public life is such that full disclosure of all expenditure is necessary. This should also include any holding companies or related organisations, so the full extent of a party's financial dealings was on the public record. Such action has already formed the substance of recommendations made by the Federal Joint Standing Committee on Electoral Matters[8]

1.4 Summary

1.4.1 In the light of recent developments and public concerns about political contributions, urgent action must be taken to rectify the current, obviously inadequate, provisions of the Election Funding Act 1981. To prevent a situation whereby further loopholes might be created in the Act by partially changing the disclosure provisions, the Australian Democrats believe that registered political parties should disclose all forms of income and expenditure on an annual basis. The public has a right to know who is funding political activity in NSW. Disclosure of income and expenditure should also apply to all candidates.

1.4.2 This should also extend to all third parties known to participate in the political process, and to Local Government elections.

1.4.3 Full disclosure should be accompanied by reasonable levels of public funding to reduce the dependence of parties and candidates on contributions from external sources. Creative application of funding laws can help ensure some measure of equality of access to the electorate by providing assistance in kind.

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[8] Ibid. p.4

SECTION TWO

APPLICATION

2.1 Background

2.1.1 The Australian Democrats have always supported a system of publicly funded election campaigns and full disclosure of donations. This should apply to all political parties, candidates and third parties participating in the electoral process.

2.1.2 Reform should provide for the following:

(a) an independent Election Funding Authority;
(b) public funding qualifications and entitlements similar to the Commonwealth Electoral Act 1918;
(c) full disclosure by registered political parties and Independent Members of Parliament of all forms of income and expenditure, to be made in the form of annual reports to the Election Funding Authority;
(d) full disclosure after an electoral event of all income and expenditure incurred by all candidates;
(e) regulation of the activities of third parties.

2.1.3 What follows is a discussion of specific issues relating to the Election Funding Act 1981 (hereafter referred to as the EFA 1981) which require attention.

2.2 Election Funding Act 1981: Part II. The Election Funding Authority

2.2.1 Under s.6, membership of the Election Funding Authority consists the Commissioner, a member nominated by the Premier, and a further member nominated by the Leader of the Opposition in the Assembly.

2.2.2 The Australian Democrats believe that overt political appointments potentially politicise the functions of the Election Funding Authority and compromise its independence from the very parties it has been established to scrutinise. Furthermore, it can be said that the membership of the Authority as established by the Act only represents the narrow interests of mainstream political parties, notwithstanding s.22, rather than the broad spectrum of groups, independents, major and minor parties who contest and win seats in State election events.

2.2.3 The Election Funding Authority must be seen to be independent of the political process. Political appointments should be abolished and replaced by the State Auditor-General and the I.C.A.C. Commissioner or their Deputies.

Recommendation:

That s.6(b) of the Election Funding Act 1981 be amended to provide for the appointment of the State Auditor-General or his deputy, as a member of the Election Funding Authority, replacing the member appointed by the Premier.

Recommendation:
That s.6(c) of the Election Funding Act 1981 be amended to provide for appointment of the I.C.A.C. Commissioner or his Deputy, as a member of the Election Funding Authority, replacing the member nominated by the Leader of the Opposition in the Legislative Assembly.

Recommendation:
That, consequent upon changes to the composition of the Election Funding Authority, consideration be given to amending or repealing s.8-14, 19 and 20 of the Election Funding Act 1981.

2.3 Election Funding Act 1981: Part V. Public Funding of Election Campaigns

2.3.1 The Australian Democrats believe that the system of public funding enshrined in the EFA 1981 contains a number of anomalies. It is also difficult to administer and inherently favours the entrenched political order. Reform is needed to remove this bias, make the system more equitable, and to ensure that all participants in the political process with a reasonable level of public support have some chance of receiving public funding.

2.3.2 Electoral funding at the Federal level has been in operation since 1984. It is our contention that electoral funding in NSW should be reformed along the lines of Part XX Division 3 of the Commonwealth Electoral Act 1918 (as amended). This would provide for several major changes.

(a) Eligibility

2.3.3 Currently, under s.79.7A(c) of the Parliamentary Electorates and Elections Act 1912, a Legislative Assembly candidate must poll 20% of the winning candidate's vote to secure the return of deposits and qualify for public funding (s.65.2 EFA 1981) .

2.3.4 Wide variations in the size of the vote of winning candidates means that losing candidates must poll more votes in 'safe' seats than marginals in order to qualify for public funding. For example, at the 1988 State Election, candidates in the District of Gordon needed to poll 15.59%, whereas in Gladesville, a vote of only 8.05% was required to secure the return of deposits. This is clearly an inequitable and

unpredictable situation. A minimum vote of 4% represents a reasonable level of community support which should be sufficient to ensure public funding payments and the return of deposits.

Recommendation:
That s.79.(7A)(c) and s81F(3) of the Parliamentary Elections and Electorates Act 1912 a minimum vote of 4.0% of first preferences to secure the return of deposits and eligibility for public funding payments for the Legislative Assembly and Legislative Council.

2.3.5 Under s.81F of the Parliamentary Electorates and Elections Act 1912, a Legislative Council candidate must poll half a quota (currently 3.125%) or be elected to secure the return of deposits. This then satisfies the eligibility requirements of clause 59.2(e) of the EFA 1981 for payments from the Central Fund.

2.3.6 A major anomaly was identified in this section at the last State Election. Our candidate, Mr Richard Jones, was elected to the Council, thereby securing the return of deposits under s.81F, but our group was denied public funding because total first preferences fell short of half a quota. We maintain that if a candidate is elected, that candidate and group should become entitled to public funding regardless of the number of first preference votes polled.

Recommendation:
That s. 59, 60 and 61 the Election Funding Act 1981 be amended to provide for payments to parties, groups and independents consequent upon election of a candidate to the Legislative Council.

(b) Entitlements

2.3.7 Under s.294 of the Commonwealth Eelectoral Act 1918 a fixed dollar value is attached to each first preference vote for the House of Representatives and the Senate. The value per vote is revised regularly by the Australian Electoral Commission, based on movements to the CPI and other factors. Currently, a vote for the House of Representatives is worth $ 0.91:223 cents, and a Senate vote $ 0.45:611 cents. This system enables candidates and groups to budget more accurately, and links support in the wider electorate directly to the size of public funding payments.

2.3.8 The complicated formula contained in s. 57, 62 and 67 should be replaced with a much simpler calculation of entitlements based on a fixed amount per vote received. Public funding then becomes payable from general Consolidated Revenue.

Recommendation:
That s.57, 62 and 67 of the Election Funding Act 1981 be repealed, and replaced with an entitlement formula based on a fixed dollar value for every first preference vote received for the Legislative Assembly and Legislative Council; the value to be determined in accordance with entitlements available under the Commonwealth Electoral Act 1918.

2.3.9 As can be seen from the following table, adoption of Federal-style public funding entitlements, when applied to results from the 1988 State Election, would have resulted in a saving of $ 1,383,104 in public monies. This is money that would have otherwise been paid to political parties.

Table 1.

Comparison of Costs of Electoral Funding Schemes for the 1988 State Election

Under the current system - Electoral Funding Act 1981

Legislative Council - paid to parties	$3,388,249
Legislative Assembly - paid to parties & candidates	1,567,637
	$4,955,886+

Under Federal-style funding system

Legislative Assembly - total votes cast which qualified for funding* 3,179,165 @ 0.78:73 cents	$2,502,956
Legislative Council - total votes cast 2,717,503 @ 0.39:368 cents	1,069,826
	$3,572,782

Difference **$1,383,104**

\+ Source: Report of the Election Funding Authority (Sydney, 1989)

* Note: all candidates who failed to receive 4% are presumed not to have qualified for funding.

2.3.10 However, simply pruning public funding entitlements to save money fails to deal with the issue of spiralling

campaign expenditure caused by the rising costs of electronic advertising and direct mail. In addition to changing the dollar value of entitlements, the Australian Democrats believe that candidates, parties and groups should receive assistance in kind in the form of .

(a) free commercial television and radio spots to replace all paid electronic advertising, as recommended by the Joint Standing Committee on Electoral Matters in their report of June 1989; and

(b) free delivery of one piece of literature from each candidate to each household during the campaign period [9].

2.3.11 Free commercial electronic media time would place no strain on the public purse and help reduce the need of parties and candidates to raise large sums of money to pay for this expensive medium.

2.3.12 Proposal (b) is designed to supplement electoral funding payments by providing material assistance in the form of a direct mail-out. Cost would depend on the number of candidates, the number of candidates who wished to avail themselves of the facility, and delivery costs of Australia Post. For example:

1988 State Election District of Gordon

No. of candidates : three
No. of households : 15,568
Aust. Post charge for delivery of material addressed "To the Householder": $ 0.06

3 x 15,568 = 46,704 pieces of literature
48,000 x $ 0.06 = $ 2,802.24

Hence, cost of delivering one piece of literature from each candidate to each household in Gordon at the 1988 State Election (based on charges as at August 1990) would have been $ 2,802.24.

2.3.13 This facility would also be available to parties, groups or candidates standing in the Legislative Council, but not standing a candidates in Legislative Assembly seats.

Recommendation:
That consideration be given to banning all paid electronic political advertising, and replacing it with free air time for candidates and parties.

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[9] This is apparently used in the United Kingdom. Report from the Joint Committee of the Legislative Council and the Legislative Assembly upon Public Funding of Election Campaigns (Sydney 1981) p. liii

Recommendation:
That consideration be given to the introduction of free delivery of one piece of literature through Australia Post from candidates to households in their electorate, to supplement public funding.

(c) Audit fees

2.3.14 Section 93 of the EFA 1981 maintains that all declarations of contributions and expenditure must be accompanied by an audit certificate. Section 75 requires an audit certificate to accompany a claim for public funding. However, under s.55(1)(a)(iii), only $ 200 can be claimed for this purpose. Whilst this may be sufficient for a declaration in respect of a single Legislative Assembly candidate with his/her own official agent, this amount is not sufficient for parties or groups with more substantial claims.

Recommendation:
That the amount of $ 200 be deleted from s.55 (1)(a)(iii) of the Electoral Funding Act 1981.

Recommendation:
That s.(i) "expenditure on audit fees incurred as a result of complying with this Act" be added to s.88 of the Electoral Funding Act 1981.

2.4 Election Funding Act 1981: Part VI. Political Contributions and Electoral Expenditure

(a) Income

2.4.1 Mandatory full disclosure of all income for 'administrative' and 'campaign' purposes should be enacted immediately to close a well-known loophole in the current Act. Commissioner Roden was perfectly correct when he stated that

> "The distinction between [donations for administrative, rather than electoral purposes] is illusory".

and further, that

> "...substantial donations to political parties are as likely to influence, whatever label they be given, and whatever purpose they may have"[10]

Recommendation:
That s.87(2) of the Electoral Funding Act 1981 be

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[10] I.C.A.C. Report op.cit. p. 494

amended to provide for full disclosure by political parties and candidates, their holding companies and other organs, of all income, either financial or in kind.

2.4.2 The I.C.A.C. Report into North Coast Development highlighted a further loophole which is used many by parties and candidates to by-pass the disclosure provisions of the Electoral Funding Act 1981. This relates to the diversion of funds through interstate bank accounts of third parties[11].

2.4.3 Media reports and evidence presented to the I.C.A.C. indicates that this practice is used widely by several political parties to 'legally' by-pass the disclosure provisions of the Act. Action must be taken to close this apparent anomaly by providing that, in the words of Commissioner Roden, "the party agent disclose the known source of each declarable donation"[12]. Such action is vital if public confidence in the political system is to be maintained.

Recommendation:
That s.86(2) of the Electoral Funding Act 1981 be amended to provide for mandatory disclosure of the known original source of contributions to political parties, candidates and groups, either financial or in kind.

2.4.4 Any move to provide for the declaration of all income and expenditure will place increased administrative burdens on political parties under the current wording of the Act (s.83). To ensure and monitor on-going compliance with the Act, and to streamline party reporting procedures, disclosure should occur on an annual basis regardless of election activities.

2.4.5 The disclosure period should cover a financial year from 1 July to 30 June. Political parties could then supply the Election Funding Authority with a declaration of income and expenditure no later than 30 days after the end of financial year. This would reflect the Canadian federal electoral disclosure system which requires audited annual returns be submitted.[13]

Recommendation:
That s.83 of the Electoral Funding Act 1981 be amended to provide for the requirement that

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[11] Ibid p. 493

[12] Ibid p. 532

[13] Commission on Election Finances op. cit. p.46

registered political parties and Independent Members of Parliament must furnish declarations of income and expenditure on an annual basis, such declarations to be made no later than 30 days after 30 June.

2.4.6 It would still be necessary for candidates to furnish declarations of contributions and expenditure after and electoral event. Under s.84 and 85 of the current Act, candidates and groups are required to furnish declarations no later than 90 days after an election event. However, as Commissioner Roden has pointed out, it is possible to avoid this section if a donation is received after polling day and the candidate does not re-contest the next election. The disclosure period for donations should be extended to 120 days after polling day to overcome this problem. A change to the disclosure timetable would then be necessary.

Recommendation:
That s.84 and 85 of the Electoral Funding Act 1981 be amended to provide for an extension of the disclosure period for political donations for candidates and groups from the day after the last general election to 120 days after polling day.

Recommendation:
That s.84 and 85 of the Electoral Funding Act 1981 be amended to extend the time during which official agents of candidates and groups can submit their declarations of contributions and expenditure from 90 days to 120 days.

(b) Expenditure

2.4.7 To ensure compliance with the provisions relating to declarations of expenditure, we would support the requirement that broadcasters, publishers and printers submit returns to the Election Funding Authority following an election event. This is already required under s. 310 to 312 of the Commonwealth Electoral Act 1918. This will also assist the Election Funding Authority in keeping accurate information on the cost of election campaigns in NSW.

Recommendation:
That the Election Funding Act 1981 be amended to provide for the submission of returns by broadcasters, printers and publishers.

(c) Third Parties

2.4.8 The last six years has seen an increase in the activity of lobby groups, unions and other third parties in

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(c) Third Parties

2.4.8 The last six years has seen an increase in the activity of lobby groups, unions and other third parties in

the Federal and State election process. Many of groups spend large amounts of money open or secretly supporting individual candidates or parties. In some cases, their impact on election campaigns has been immense. Yet the financial activities of these 'third parties' are not currently regulated by state electoral laws.

2.4.9 The I.C.A.C. Report into North Coast Development shows that the time has come for the political activities of third parties to be more closely scrutinised. A public register of lobbyists and their clients, as suggested by Assistant Commissioner Roden[14], must be established.

2.4.10 The events revealed by the I.C.A.C. Report have not been the only matters which have raised questions about the effectiveness of the Act. The activities of the organisation known as Community Polling, which gradually became known, after the 1988 election have also caused concern in some quarters.

2.4.11 Media reports indicate that the activities of Community Polling were referred to the Electoral Commissioner for investigation by Paul Whelan, MP. Allegations reported referred, included donations being declared as from a group or individual not Community Polling the alleged true source of funds, and the non-declaration of donations.[15]

2.4.12 In response the Electoral Funding Authority Secretary Mr John Wasson reportedly criticised the activities of Community Polling, saying it had not broken law, rather it had frustrated the spirit of the Election Funding Act. In his reply to Paul Whelan, MP, John Wasson reportedly wrote;

> "Legislative changes would be required to remedy this situation and this is a matter for the Parliament of the day."[16]

2.4.13 Third parties, organisations and lobby groups should be required under the EFA 1981 to submit declarations of expenditure in relation to their activities in election events.

2.4.14 The Federal Joint Standing Committee on Electoral Matters recently considered the role of third parties in its Report No.4, and recommended that

> "The Commonwealth Electoral Act 1918 be amended so as to

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[14] I.C.A.C. Report op. cit. p. 654

[15] Alex Mitchell "Probe sought into Lib funding for NSW election" Sun Herald 26 March 1989

[16] Alex Mitchell "Lib funding blast" Sun Herald 25 June 1989

provide for the full disclosure of all income and of expenditure by third parties publicly listed by the AEC in its reports on the operation of Part XX of the CEA 1918 (Recommendation 6)[17]

They further recommended that the AEC publish its current listing of third parties in all future reports on the operation of Part XX.

2.4.15 Recent events have shown that there is now a need for the Government to act in this area, to ensure public confidence in the fairness and openness of our political process is maintained.

Recommendation:
That a public register of lobby groups and their clients be established.

Recommendation:
That the Election Funding Act 1981 be amended so as to provide for the disclosure of all forms of income and expenditure by third parties.

Recommendation:
That the Election Funding Authority keep a register of third parties and include its current listing in reports under s. 107 of the Electoral Funding Act 1981.

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[17] Joint Standing Committee on Electoral Matters Report No.4 op. cit. p. 5

SECTION THREE

ENFORCEMENT, OFFENCES AND PENALTIES

3.1 Principles

3.1.1 If election funding and disclosure laws are to be effective in restoring public confidence in the electoral system, they must satisfy three requirements. First, the laws themselves must be capable of enforcement, second the enforcement must be unbiased, independent and rigorous and thirdly penalties for non-compliance must be severe.[18] The NSW Electoral Funding Act 1981 fails these three requirements.

3.1.2 We do not accept, as Assistant Commissioner Roden did not accept, that an effective and enforceable requirement of public disclosure is unattainable.

3.2 Enforcement

3.2.1 The I.C.A.C. Report on North Coast Development condemned the Election funding Act as a failure. Assistant Commissioner Roden noted that (our emphasis);

> "There has **not been one prosecution** of a political party under the Act. There has **not been one prosecution** of anyone under the Act for failure to declare a donation.
>
> The Act gives inspectors appointed by the Election Funding Authority, power to inspect party books and records, and relevant banker's books, and gives them power to enter premises for the purpose. Yet the circumstances under which the power may be exercised are so limited, that since the Act was passed in 1981 there has **not been a single inspection made** under it. Indeed. **no inspector has been appointed!**"[19]

The Report recommended that the enforcement provisions be tightened and that the law be made capable of enforcement.

3.2.2 Assistant Commissioner Roden's assertion that no-one has ever been prosecuted under the Act is surprising given a media report that Dr Victoria Papadakis did not declare a printing bill paid by the Liberal Party. The Liberal Party's return to the Election Funding Authority reportedly revealed that the Party paid for a leaflet for Dr Papadakis,

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[18] Commission on Election Finance op. cit. pp.26-27

[19] I.C.A.C. Report op. cit. p. 531

independent candidate for Canterbury at the last election.[20]

3.2.2 The Act has established a system which has the appearance of independence and is in effect a sham. An inspector of the Electoral Funding Authority may only use the power to enter and inspect under section 110(2) if section 93 of the Act is not complied with. The result of this section is that (our emphasis);

> "... it is clear that provided there is an auditor's certificate accompanying a declaration, and that that certificate is in terms required by the Act, the Authority has no power to inspect the relevant books. It **is the privately appointed auditor, and not the Authority, upon whom the Act relies."**[21]

The reliance on auditors certificates as the only means of ensuring compliance with the Act is not independent, and certainly does not appear to be unbiased.

3.2.3 Effective policing of disclosure laws requires an effective power to enter and inspect. There is no reason why political parties and candidates should not be subject to spot checks. The Authority must have the ability to check auditors certificates.

> **Recommendation:**
> **That the Electoral Funding Act 1981 be amended to give the Election Funding Authority and its officers an unfettered right of entry and inspection to conduct spot audits on the financial records of any party, group or candidate.**

3.2.4. It should be noted that the appointment of politically independent persons to the Electoral Funding Authority (see above) will also enhance the independence of the Authority and encourage confidence that it's decisions are free of political bias.

3.3 Offences

3.3.1. The Election Funding Act creates two offences with regard to the declaration of political donations. The first is a failure to lodge a declaration (s.96) and the second is making a false statement in a declaration (s.97).

3.3.2 Section 96 means if a declaration is not lodged the

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[20] "Liberal funds for independents: Greiner may alter law" Sydney Morning Herald 20 Oct. 1988.

[21] I.C.A.C. Report op. cit. p. 535-6

agent and the Party are guilty of an offence. The candidate is not liable. There is no good reason why the candidate should not be liable, given that the campaign has the direct effect of supporting the candidate.

> **Recommendation:**
> **That s. 96 of the Electoral Funding Act 1981 be amended to make the candidate liable for failure to lodge a declaration as required by section 83.**

3.3.3. The weakness identified by the I.C.A.C. relates to false statements in declarations, section 97. The effect of the section as it stands is that there is no offence unless the agent, who makes the declaration, knows that a statement is false, or does not reasonably believe that a statement is true. Therefore, the result is;

> "It seems that parties may flout the Act with impunity, so long as the agent is misled, and is not knowingly responsible for the misleading."[22]

3.3.4. This loophole must be closed, if the requirement (see above) that the original source of any donation is to be declared is to be effective. We agree that;

> "The range of offences needs to be widened. In particular, it should be an offence for any person to give false and misleading information to any other person for the purpose of influencing a declaration made or required to be made under the Act, or where the person giving the false or misleading information knows that it might have that effect, provided of course that that person knew the information to be false, or did not reasonably believe it to be true."[23]

3.3.5 It must be an offence for any person dealing with a donation to provide false or misleading information about that donation. Only then can the agent, and therefore the Authority have some confidence that the declared original source of any donation is indeed the original source.

> **Recommendation:**
> **That the Electoral Funding Act 1981 be amended to make it an offence for any person to give false or misleading information about any contribution or donation to a political party, group or candidate.**

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[22] Ibid p. 534

[23] Ibid p. 534

SECTION FOUR

GENERAL ISSUES

4.1 The Role of the State Electoral Office

4.1.1 To service the needs of candidates, groups and parties, the State Electoral Office must be resourced adequately. This means sufficient Handbooks, rolls, maps and forms, available well before a major election event, and staff who are fully briefed at Divisional and Head Office level.

4.1.2 If either the Electoral Funding Act 1981 and the Parliamentary Electorates and Elections Act 1912 is amended substantially before the next State Election, an Information Seminar conducted by the S.E.O. may be necessary to brief party officials on the new amendments and altered procedures. A similar Seminar was conducted very successfully by the Australian Electoral Commission in June last year. We found it an excellent opportunity to meet the staff and discuss the operation of various electoral laws.

4.1.3 The State Electoral Authority needs to recognise that not all parties, groups and candidates campaign or claim the same expenditure as, say, the Labor and Liberal Parties. For example, the Democrats do not claim vast amounts on TV advertising; our claim for public funding is more likely to claim large amounts for travel, accommodation, wages and salaries. The design of forms, availability of information and staff must take into account the variety of participants in the political process and adopt an even-handed approach in its dealings with all clients.

Recommendation:
That the State Electoral Office conduct a Seminar for party officials and Independent MP's after changes to electoral laws have been enacted.

4.2 Local Government

4.2.1 For reasons already argued in para 1.1.10, clearly a need exists for disclosure of political contributions and expenditure in relation to Local Council elections.

4.2.2 Whilst it would be desirable to implement a system of electoral funding for Local Government, the cost would be prohibitive and place further burdens on the public purse.

Recommendation:
That the Local Government Act be amended so as to provide for full disclosure of income and expenditure by candidates in Local Government elections.

CHAIRMAN: These proceedings will attract parliamentary privilege, which is essential, depending on what you want to say. The summons which was issued does not imply any lack of willingness on your part to appear before the Committee. Its purpose is simply to gain information. If you believe any questions which are asked are outside your professional competence you should indicate this fact to the Committee. There is no need to worry about it. If there is an issue which the Committee has only partially explored which you feel deserves attention, you should feel free to offer information. The Committee's project officer has prepared a series of questions which cover a range of the areas we are looking at. The Australian Democrats' submission deals with a range of issues so I will not necessarily ask questions about all the matters raised in it. Some matters relate to disclosure and some matters relate to other questions. In fact, a great many relate to issues with which we will be dealing today. Do you have a view as to what the threshold of public support should be before public funding is provided to political parties or candidates?—A. The Australian Democrats believe that the present 4 per cent threshold in the Federal Act is sufficient. That is the threshold which the Australian Democrats look at.

Q. What are the pros and cons of public funding, so far as the Australian Democrats are concerned?—A. A small political party does not have the ability to attract finance from various sources, such as the union movement, big business and so forth. We have a very small financial base from which to finance our campaign. Electoral funding will allow the Australian Democrats and other small political groups to actively participate within the political process. In the past many small political parties have had financial problems. The fact that we have been able, through electoral funding, to develop as a political party I think helps and develops the political process within New South Wales, and that is certainly an area which has assisted us greatly in actually meeting a lot of our commitments as a political party. That is not to say that we solely depend on public funding but certainly it becomes an

important aspect of our overall budgeting for elections.

Q. In a case where a political organisation has a small basis of support, what is the argument for funding it at all?—A. Basically, it is mainly from the community at large. If a party has few financial resources but certainly has public support, there is an argument that those people who have shown support to a political party should have equal access to public funding as those which may have larger financial resources.

Q. Have you found or have the Democrats found any unintended consequences of the subsidy that is public funding?—A. Our main area of concern has been the ballooning of electoral expenditure which has been perhaps an off-shoot of the electoral funding system. Those parties which in the past had major financial resources can see their financial resources balloon out even further, which to some extent has crippled the dollar for dollar value of a small political party to meet those higher expenditures of larger political parties, and in some respects puts the equality of the political process in question. While it helped us initially, the overall expenses of political parties have increasingly concerned us.

Q. Do you think the aid should go to parties, candidates or both?—A. Basically to the party because it is a registered political party. If parties are registered as political parties in this State, the candidates are representing those political parties. In the case of Independents, certainly there is a case where a candidate should be able to address his or her financial electoral funding directly to them. The onus of liability as far as putting in returns and so forth should be equally spent between the political party and the candidate.

Q. Given that aid given to the parties tends to centralise control whereas aid given directly to the candidates tends to fragment parties, I take it that you would prefer that aid should go to the parties centrally, where control is seen to be greater?—A. Yes. In most cases the major expenditure for political parties comes from a central resource. Unlike the Liberal Party and Labor Party, much of our expenditure is on the ground. Most candidates meet their commitments and so

forth in their electorates. However, it is much more practical, we have found, to administer from a central area. Many candidates are not familiar with the public funding provisions and so forth, and it sometimes requires education from the central party to educate those candidates, and in turn to do some administration back to those candidates. So we see it as more appropriate to have the funds going back to a central source and then leaving it to that party to administer out to its candidates, in light of the expenditure from a central source or from the candidates.

Q. Do you think the criteria for allocating the subsidy should be amended?—A. Yes.

Q. I note that this is one of the areas that you have addressed?—A. Yes. We feel that the way of allocating it has been very grey in the past, in as much as who is ultimately responsible for putting in those returns and who is ultimately going to receive those fundings back. In the past the thresholds have fundamentally prejudiced some of the smaller political parties. I cite in our submission the case of Gordon—and I might stand corrected on this—that a higher threshold is required to receive electoral funding than in a marginal seat which might require only 8 per cent, which somewhat prejudices candidates standing in so-called blue ribbon seats, while those standing in more marginal seats are more likely to receive electoral funding.

Q. While on that point I might jump directly into the part of your submission where you refer to the situation pertaining to the Legislative Council in New South Wales. What are your views on the threshold system there?—A. As we have recommended in the Legislative Assembly, we have followed through with a 4 per cent. Currently the half quota situation is less than 4 per cent but we would see standardisation for both Houses of Parliament as being of some advantage.

Q. What about the part of your submission that refers to gaining funding as a consequence of being elected?—A. Yes, this has been quite a shock. We are concerned that while in the last election we had somebody elected and we received our

deposit back as a result of other areas of the Act, the current Act does not allow for the circumstance where the first preference voting does not exceed the half quota. As a result, we had a member who was elected to the Legislative Council and no electoral funding was being received by the party.

Q. What is your view about the composition of the Electoral Funding Authority. Do you see it as being political?—A. We feel that the composition should be changed, particularly in relation to those appointed. Presently the Act requires appointment from the Premier, the Leader of the Opposition and the Electoral Commissioner. We feel strongly that that should be changed so that political influence can be removed from the current structure. We have recommended that the Auditor-General or his deputy be appointed to fill one of those positions, with the appointment of the Premier's position to be filled by the State Auditor-General, and that a representative from the Independent Commission Against Corruption or his nominee be appointed. We see that as being one way of removing political influence from the current composition, and that would bring fairer representation. Presently, while that represents the Government and the Opposition, those people or parties on the crossbenches are not represented as part of the existing structure. We see this as one way of making it fairer for all parties and making it more active as far as assessing claims and activities.

Q. Are you aware of any occasions when the Electoral Funding Authority has acted politically in that sense?—A. We have been concerned mainly that since the Act was imposed in 1981 no actions have been taken under the Act. We have had concerns in relation to cases such as a previous return by candidate Vicky Papadakis, who did not put in that she had received a donation of leaflets from the Liberal Party, where no action seems to have taken place. This brings into question whether there was political involvement or whether the Act is not strong enough in its current structure to act in these cases.

Mr MURRAY: I just say that I am glad you are under

privilege.

CHAIRMAN: Have you given any thought to alternate methods of subsidising elections, nót that we have any direct control over that but ones such as income tax deductibility or other issues that have been raised?—A. We have looked at that, and I draw the attention of the Committee to a Federal report entitled——

Q. "Who Pays the Piper"?—A. "Who Pays the Piper". That initially looked at various areas of other alternative areas of funding. You mentioned tax deductibility. The concern here is that this may block out people such as the unemployed, pensioners and people on fixed incomes who wish to participate in the electoral funding procedure but, due to their limited incomes, cannot play a significant part in the electoral process in the same way as a big business, a union or any other organisation which is paying tax. In light of that, we see that the current electoral funding is probably the fairest; it removes some of the anomalies from the system that may exist with tax deductibility. Currently it is a broader area of receiving a fairer composition for political parties.

Q. A series of questions have been raised recently about public funding suggesting that it may have reduced participation in the political process. How do you increase participation in the party political system, particularly if the parties feel they are now being funded publicly and do not have the same pressure on them to involve a wide range of membership in that side of things? Have you found that money has been a guarantee of success in effective electoral campaigns, and how important a role does it play in the whole electoral process?—A. In the case of the Democrats, it has not affected our need to go fund raising. The membership within our own party has significantly increased, and that probably is one of the consequences of not receiving electoral funding previously. The argument that public funding prevents members from being more involved in the financial areas we feel has not been the case, mainly because there are other areas of administration where the party does not receive electoral

PROCEEDINGS OF THE JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Thursday, 24 May, 1990

At Parliament House, Sydney, at 5.15 p.m.

MEMBERS PRESENT

Legislative Assembly	Legislative Council
Mr Booth	Mr Bull
Mr Hatton	Mr Egan
Mr Jeffery	Miss Kirkby
Mr Mills	Mr Matthews
Mr J. H. Murray	Revd Mr Nile
Mr Phillips	Mr Shaw
Mr Souris	Mr Willis

Mr G.H. Cooksley informed the Committee of his appointment, pro tempore, as Clerk to the Committee.

The following entries in the Votes and Proceedings of the Legislative Assembly and the Minutes of the Proceedings of the Legislative Council were read by the Clerk:

Legislative Assembly -

Votes and Proceedings of the Legislative Assembly, 3 May, 1990, entry numbers 7 and 12.

Votes and Proceedings of the Legislative Assembly, 23 May, 1990, entry number 11.

Votes and Proceedings of the Legislative Assembly, 24 May, 1990, entry number 10.

Legislative Council -

Minutes of the Proceedings of the Legislative Council, 23 May, 1990, entry number 3.

Minutes of the Proceedings of the Legislative Council, 24 May, 1990, entry number 13.

On motion of Mr Jeffery, seconded by Mr Souris, Mr Booth was called to the Chair and thereupon made his acknowledgements to the Committee.

Resolved, on the motion of Mr Bull, seconded by Mr Murray: That arrangements for the calling of witnesses and visits of inspection be left in the hands of the Chairman and the Clerk to the Committee.

Resolved, on the motion of Mr Phillips, seconded by Mr Hatton: That, unless otherwise ordered, parties appearing before the Committee shall not be represented by any member of the legal profession.

Resolved, on the motion of Mr Murray, seconded by Miss Kirkby: That, unless otherwise ordered, the press and public (including witnesses after examination) be admitted to the sittings of the Committee.

Resolved, on the motion of Reverend Mr Nile, seconded by Mr Shaw: That persons having special knowledge of the matters under consideration by the Committee may be invited to assist the Committee.

Mr Phillips moved (seconded by Mr Mills): That press statements concerning the Committee be made only by the Chairman after approval in principle by the Committee or after consultation with Committee members. **(Resumption of adjourned debate at next meeting).**

Resolved, on the motion of Mr Phillips, seconded by Mr Souris: That, unless otherwise ordered, transcripts of evidence taken by the Committee be not made available to any person, body or organisation: provided that witnesses previously examined shall be given a copy of their evidence; and that any evidence taken in camera or treated as confidential shall be checked by the witness in the presence of the Clerk to the Committee or an Officer of that Committee.

Resolved, on the motion of Mr Jeffery, seconded by Reverend Mr Nile: That the Chairman and the Clerk to the Committee be empowered to negotiate with the Presiding Officers for the provision of funds to meet expenses in connection with travel, accommodation, advertising, operating and approved incidental expenses of the Committee.

Resolved, on motion of Mr Phillips, seconded by Mr Mills: That the Clerk be empowered to advertise and/or write to interested parties requesting written submissions.

Resolved, on motion of Mr Bull, seconded by Mr Matthews: That upon the calling of a division or quorum in either House during a meeting of the Committee, the proceedings of the Committee shall be suspended until the Committee again has a quorum.

Resolved, on motion of Mr Hatton, seconded by Mr Shaw: That the Chairman and the Clerk make arrangements for visits of inspection by the Committee as a whole and that individual members wishing to depart from these arrangements be responsible for their own arrangements.

The Committee adjourned at 5.45 p.m.

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The next meeting of the Committee will be at 12 noon on 21 June, 1990, in Room **1136**.

One only need look as far as the legislation governing Australian taxation to see how far the legislation can be twisted in order to avoid detection.

This is not to say that nothing can be done but the fact remains that as long as politicians and donors dance around the law in a way which breaks the spirit and not the letter of the law any amendments will be essentially superficial.

THE ICAC RECOMMENDATIONS

Whilst a number of issues made by The Independent Commission Against Corruption (ICAC) in its report on Investigation into North Coast Land Development were raised in relation to political donations, these issues have not yet been addressed by the Committee and they will form the basis for the second report after public hearings are held on the subject.

Essentially however the ICAC report maintains that the existing legislation in NSW is ineffective in dealing with public disclosure of donations as loopholes in the law effectively render the legislation optional.

As the report states:

> "So long as substantial donations can be made to political parties or candidates without public disclosure, they can be used to purchase influence. The law that allows secret political donations, creates conditions conducive to corrupt conduct."

(ICAC report, 1990, p 527)

This comes as no surprise.

The ICAC report makes a number of recommendations about which provisions in the legislation require attention. That is:

(a) What donations are to be disclosed.
(b) Who is to be named as donor.
(c) When disclosure is to be made.
(d) Offences.
(e) Enforcement.

(p 531)

They also identify problems regarding:

* The use of intermediaries between donor and party.
* The exemption of disclosing payments if the money is not used for electoral expenditure.
* The failure of the legislation or the party agent to declare the actual known source of a donation rather than the last source.
* Problems regarding interstate transfers of donations.
* The failure to penalise the candidates rather than the agent.
* The failure to penalise a person for giving false or misleading information for the purpose of influencing a declaration.
* The failure to adequately enforce offences.
* The lack of power of inspection and right of entry that hinders investigations by the Election Funding Authority (EFA).
* The fact that the EFA can not investigate an allegation unless it is almost 100% sure that a conviction can be sustained.

These areas will form the basis of the next report by the Committee which is due in June 1991 and which will address these problems in light of overseas experiences and information gathered by the Committee whilst on its study tour.

ETHICS

One point which does warrant further analysis is the question of ethics and whether there is a distinction between ethics in a commercial environment and ethics within the political environment.

That is, what may be ethical in one sphere may not necessarily be ethical in another sphere.

For example, a company may receive a benefit such as the use of a ski-lodge in return for business or one company may take away staff from another company on a "workshop" perhaps paying for spouses to be included as well.

What would be accepted as normal business practice ("the perks of office") would be intolerable in a political environment.

The distinction? The power wielded by politicians must be seen to be exercised impartially and on a merit basis without being subject to pressures by special interest groups, otherwise notions of democracy become farcical.

REGISTER OF LOBBYISTS

Speculation has been raised as to the benefit of establishing a register of lobbyists as is currently the situation in a number of states in America.

The House Committee on Ethics in Tallahassee, Florida enacted legislation on 1 January 1991 regarding the acceptance of gifts to candidates. Its definition of lobbyists which appears in HB31-A is worth quoting:

> "`Lobbyist' means any natural person who, for compensation, seeks, or sought during the preceding 12 months to influence the governmental decision-making of a reporting individual or procurement employee or his agency or seeks, or sought during the preceding 12 months, to encourage their passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his agency. With respect to an agency that has established, by rule ordinance, or law, a registration or other designation process for persons seeking to influence decision making or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered or otherwise designated as a lobbyist in accordance with such rule ordinance, or law or who was during the preceding 12 months required to be registered or otherwise designated as a lobbyist in accordance with such rule, ordinance, or law."

Essentially, the need is to ensure that the public is aware of the amount of money that lobbyists spend on influencing legislation and the areas of reform or bills that they are concentrating their attention upon.

Most reformers in the area of campaign finance feel the need to

ensure that three areas are fully covered in terms of disclosure.

That is:

(1) Disclosure of pecuniary interest - often called a Conflict Register.
(2) Disclosure of donations.
(3) Disclosure of information regarding lobbyists.

THE HOBART TRIP

The Committee sent a delegation of three politicians to Hobart to attend the 12th Annual Conference of the Australian Study of Parliament Group in Hobart on 21 and 22 September 1990.

The theme of the conference was "Financing of Politics: The Need for Reform." Attendees were Mr J D Booth MP, Mr B L Jeffery MP and the Honourable E Kirkby MLC.

Papers were presented by:

Dr Chaples
Dr G Starr
Dr P Aimer
Dr R Brown
Senator W Parer
Mr T Sherman
Mr R Grove
Mr D Solomon

Dr Chaples paper raised issues relating to "the disclosure of election spending and the public declaration of the sources of significant private donations". He referred to the federal legislation and mentioned the problems associated with disclosure as well as the fact that elections themselves are costing more and more.

A paper presented by Dr Aimer of the Political Studies Department, University of Auckland also raised a number of questions in relation to the actual controls which should be in place on political finance. Dr Aimer referred to the Report of the New Zealand Royal Commission on the Electoral System and in particular the Commission's recommendation in regard to donations and disclosure. He criticised the New Zealand Parliamentary Electoral Law Committee's review of these recommendations, in particular the level of partisanship

present in the Committee's deliberations.

Dr Starr also raised a number of interesting points. In particular he referred to problems in regard to a decline of electoral support for the major parties and more seriously the disappearance of ordinary party members. He also pointed to problems in regard to full disclosure as parliamentarians would not be insulated against knowledge of any donations received.

On a lighter note he said that the

> "credibility of a politician calling for measures to control campaign funds has been likened to that of a serial killer saying `stop me before I kill again'".

(Starr, 1990, p 16)

David Solomon's paper concentrated upon legal limits to the funding of political campaigns and concentrated on the role of the constitution and referred to possible interpretations by the High Court in light of recent cases.

The members of the delegation believe the information gathered was very valuable and the conference worthwhile.

Copies of all papers were circulated to all members of the Committee for their information and attention.

COMMITTEE MEETINGS

funding, chiefly administration, membership drives, and so forth, where funds are still required to be raised by each political party. Therefore, it is an area in which parties and membership have to continue to be involved in the political process, having active involvement in such things as conferences, policy committees, and so forth. In relation to that, it has not affected the need for the Democrats to involve their membership. There are areas where the average member of a political party has not been stifled by electoral funding.

In relation to the amounts of money which are coming in and whether that has either helped or hindered the political process, the more important aspect is the equality that a political party may receive to campaign on an even level with all other political parties. This has been one of the reasons why we in our submission have voiced some concern about electronic media advertising. More recently, in the last six years, we have seen an increase in direct mail, and we have made mention of that as well. It has become clear in the political process that that political expenditure, is increasing. As it increases it squeezes out some of the smaller political groups which are unable to compete significantly on a even level with all other political parties, and particularly the major political parties. We do have financial resources to advertise, to contact candidates directly and to enable them to get their message out. We find that significantly is a problem as it is a lot harder for a Democrat to get his message out, and that means we have to work probably 10 times as hard trying to get our message through with limited funds than maybe a political party that can advertise on radio, television and in the mainstream media.

Q. Do you think the total quantum of public funding provided at the moment is sufficient or should it be increased?—A. The quantum at the moment should be reflective of current inflationary increases. I know that the Federal Act is linked to postage. Once the price of a postage stamp is increased electoral funding is reflected in those increases. One of our main areas of concern is that electoral funding may

get out of hand and become a bottomless pit. The way we see of getting round that and controlling the quantum is to control in which political parties expend their money. We would be extremely concerned if electoral funding had no ceiling at all. If a political party just puts in a claim for X number of dollars of public funding, we would be looking at that with great reluctance and great concern if no ceiling or upper limit is imposed.

Q. Are the allowances made for expenses adequate?—A. I note in our submission, in relation to auditors' fees, which is one area which the Act currently limits to $200, that the actual expenses are insufficient, given the current increases in auditors' fees and the type of returns put in by different political parties. Ours is probably a much more detailed submission because we do claim different amounts. Whilst both the Liberal and Labor parties may pick up most of the electoral funding with such things as television and radio, we would claim things such as travel, accommodation, telephones and salaries to a much higher extent. To itemise each one of those and for our auditors to go through to make sure they all comply with the Act is a much more major task and imposes a major cost on a party like the Democrats, whereas it may not reflect on other political parties. Other areas of expenditure relate to travel. We do incur higher travel expenses than probably most other political parties. Most of our candidates are required to go door knocking, similar to candidates in the other political parties. However, a lot of those expenses currently would not be put in as a claim under the current Act. We actually put in a more detailed claim.

Q. I take in from your earlier remarks that the Democrats would view the percentage of first preference votes required to entitle a candidate to a return of the deposit to be the same as the 4 per cent you are suggesting should be the threshold level for public funding?—A. That is correct.

Q. Do you think the Electoral Funding Authority should have the power to inspect party books, records and bank accounts and to enter premises? If so, should those checks be

on-the-spot or with notice?—A. We feel there should be the ability to inspect party records, not just election expenses, but administrative expenses. We have been concerned in the past that we have seen some electoral expenses going in administrative expenses, mainly in the Federal area, but where those moneys are coming in to finance a political party it is of concern that currently if an audit certificate is placed on an electoral funding return, the commission has no rights under the current Act to actually look at those records.

It is of significant concern that while there has been under the Act the right to inspect records, no inspector has ever been appointed and therefore we see those powers of inspection as extremely important. As far as notice or on the spot, we most certainly favour on the spot. All political parties are major organisations and they cite that they have economic concerns in hand. Therefore, the books of a political party should be kept as any business would be kept, in a state that they can be inspected at any time, similar to any other authority.

Q. Thank you. I think that has covered most of the matters I wanted to raise.

Mr EGAN: Just on the question of the threshold, four per cent, I think you indicated should be the level of support needed for both eligibility for public funding and return of deposit. Would you consider that that four per cent necessarily indicates, particularly in the lower House seat where a candidate happens to be on the top of the ballot paper any degree of public support at all rather than just the random chance of any one on the ballot paper picking up four per cent of the votes?—A. I think by you saying that you are saying there is a degree of the public who just for the sake of filling in those——because you are on the top of the ticket and you receive four per cent, that you have no public support. There is no way of gauging whether that person has received public support or not, and just to eliminate that person because they are on the top of the ticket or have received only four per cent, certainly may hinder the political process.

Four per cent federally has proved an excellent area of saying whether that candidate has public support. Certainly I think the four per cent is a suitable quantum for the electoral funding to be paid.

Q. You mentioned also that you believe funding should be made to the party rather than to the candidate. I think in your submission you also suggested that the amount of public funding that a party should receive should be based on the first preference votes it receives at both upper House and lower House elections. Does not that disadvantage a candidate, let us say who might receive 10 per cent of the vote in a particular electorate as against a candidate who might only receive two per cent in another electorate? What recognition is there in the system that you are advocating of the support that those two candidates have when the funding would go to the party rather than to the candidate?—A. Certainly their expenditure would be examined. Whilst the candidate who received two per cent would not be entitled to electoral funding, and that would be regrettable, certainly the person who received 10 per cent would have their expenditures covered. Because that person only received two per cent, it could be argued that that support does not exist in that particular electorate and the expenses incurred by that candidate certainly should not be suitably compensated by public funding similarly as exists in the Federal sphere at the moment.

Q. But under your suggestion that the party should be funded merely on the basis of the primary vote they received in election for both Houses of Parliament, and then I assume the funds dispersed by the party however it thought fit, then the candidate who received two per cent and who has not met that four per cent quota is getting public funding and probably is getting as much funding, possibly even more, than the candidate who received 10 per cent. If the eligibility for funding is based on attracting a degree of public support, then how does that tally with a system whereby the funds go to the central party?—A. At the moment under the Federal Act the funds go to the party, not to the candidate. So far as that is concerned,

I see no problem existing there. As a State, we are a full State and if a political party receives throughout the State overall support of in excess of four per cent, certainly there is support throughout the State. Now we should not isolate certain electorates. If there is political support throughout the whole State of New South Wales in excess of four per cent, there should be an argument there that there is support throughout the State to give electoral funding to the party.

Reverend NILE: In your submission you reported on your experience in 1988 when the Democrats did not get funding. That could have meant that you spent many thousands of dollars. Theoretically if you support the threshold of four per cent your vote could have been, say, 3.9 per cent, 124,000 votes and you spent $150,000 but you do not get one cent back. If you had increased by 0.01 per cent and got 4 per cent of the vote and you spent $150,000, you would have got $125,000 back, for example. Do you not feel that is not a very fair system to support the 4 per cent threshold in the Legislative Council? In fact you are really supporting an increase in the threshold in your submission which would disadvantage the Democrats and probably similar sized groups?—A. Regrettably that situation exists no matter what threshold you place. If you put it as the current threshold is and you just come below that, certainly you would not be entitled to electoral funding. In our submission we also would advocate that if a candidate is elected to the upper House, electoral funding is given. It is regrettable but I think there is a need to have a minimum threshold to be addressed. If you start saying, "Let us make it a half percentage lower", that same argument may still exist. The experience we found with four per cent on a Federal basis, whilst we have missed out in certain seats, has been a suitable formula for us to use in the past. Whilst we are advocating a higher percentage in the Legislative Council, I think the standardisation of both Legislative Assembly and Legislative Council is important to keep the similarity between the two Houses.

Q. In your recommendation number five you are really

saying that there is no threshold when you say a candidate could be elected and once you are elected you get the funding. There is no threshold. They could have got one per cent of the vote and receive funding. What are the arguments that you think are strong of why there should be a threshold in the first place? Why have a threshold?—A. If a candidate receives half a percentage of the votes should electoral funding be given to that person where there has not been significant public support either directly or indirectly——in the case of our last where we received less than our quota to receive electoral funding, certainly there was electoral support shown as a result of the preferential system in turn having a Legislative Council elected. If there is no threshold placed and it was just, say, opened up to any person to receive electoral funding who stood as a candidate, the trouble would be that we would see many candidates running not for the purpose of representing their constituency but unfortunately representing themselves and they would be looking to receive electoral funding for personal campaigns which may not be founded. We have had the experience of pop stars and so forth nominating as candidates——media personalities. Should those people still be entitled to electoral funding to finance their publicity campaign even though they expect to get only 1 or 2 per cent of the vote?

Q. Correspondingly, they would get only a very small amount of funding. The funding is based on the public support in the amount of votes they receive?—A. Yes, that is quite correct, but should the public funding be used for self promotion of an individual indirectly through the media?

Q. In relation to your recommendation No. 5, if you have no threshold but can arrange preferences, that obviously would favour any political group that can arrange preferences from political parties with similar political views. So there is a building in of a bias towards certain political groups?—A. Certainly if there are a series of candidates who may feel similarly on issues, however they wish to stand against each other. I particularly note the environment

movement, which stood quite a few candidates on the last Legislative Council ticket. There was public opinion towards the environment movement and not allowing the use of preferences for people gaining the environment vote would disenfranchise those people who had concerns for the environment and felt that the environment area should have had public support. That seems to me to be a way of reflecting support for the environment movement.

Mr HATTON: In the suggestions that we amend section 87 and 86 of the electoral funding Act for disclosure of all known original sources and so on——

CHAIRMAN: As I indicated at the outset, we are not dealing with disclosure matters at this stage; we will be hearing separately on that. I had deliberately left out questions relating to that part of the submission the Democrats made which relates to disclosure matters. I do not think it is productive at this stage to have a brief opening discussion on a matter on which we have not prepared ourselves. We are trying to keep matters today down to mechanical matters.

Mr HATTON: Thank you, Mr Chairman. How do you see the mechanics of the free air time and free delivery working? In other words, you have free air time on television and radio and free delivery of at least one item. Who actually pays for that? Is that a structure in part of the public funding structure and how do you see that working?—A. As I previously mentioned, we have been concerned about the ballooning of electoral expenditure. We see both those measures as a way of placing all political groups on one level. The funding of those would certainly be an area for this committee and also the public funding area. We see the funds coming out of the public funding area. This may be reflected in other areas in cents per vote placed. It is one way of levelling up——from the public funding area.

Q. You suggest that we pay the party rather than the candidates, although in the case if Independents of course there would be an entitlement. Because the party is able to promote its candidates as a group, would you consider that you

should reduce funding for political party candidates compared with Independent candidates, because they are getting two bites at the cherry; they are being promoted once by their political party by the central fund and they are being promoted again by their expenditure in the constituency?—A. Certainly I can see your point there. In the case of the Democrats, which promote both the party and their candidates as a candidate, because there are very few expenses from a central fund and that candidate is virtually doing a campaign similar to that of an Independent in which the funds are being raised on the ground quite regularly from the pocket of the candidate, the fact that the candidate is a Democrat is mainly just a label of people who are concerned with the political process. In many cases it is a matter of promoting the candidate in the local seat to get that candidate's name known. We suffer from the effects of not having the same media profile as major political parties that can afford radio and television. In that light, we do not see that Independents may be disadvantaged. We have been disadvantaged in the past by the fact that we are a political party throughout the State and have to spread expenditure throughout the State.

Q. In the composition of the electoral funding authority, you are suggesting the Auditor-General and ICAC representative replace the political parties. Do you feel that that action would assist in the policing of the Act and do you have any further suggestions on how the Act could be better policed? I think most of us were interested in the fact that first you stated that there was no inspector appointed up to now and second there appeared to be a reluctance to take action against those people who did not declare donations as required under the Act?—A. By placing the Auditor-General and a representative from ICAC in that area we see that as being important to give it an independence from the political process. We see that also as making the administration of the Act much more effective in addressing anomalies or inconsistencies in the Act so that problems which arise or breaches of the Act can be more closely policed outside the

political process or the government of the day. The Act could be more policed than it has been in the past. We have mentioned in our submission areas in which we would like to see the ability for on-the-spot inspections and so forth. Having an inspector there would be one way of insuring that.

Q. Do you see that having a member of ICAC on the electoral funding authority would cause electoral funding to be seen in a wider context in terms of corruption in the broader sense of the political system?—A. ICAC has raised concerns about the North Coast development case and the funding of political parties being seen as more open and free of any form of corruption. By having a representative of ICAC actually sitting in the area of public funding would be one way to ensure that that occurs.

Q. In other words, it is part of ICAC's corruption prevention strategy?—A. Yes, most certainly.

Mr WILLIS: Page 9 of your submission states, "Only a system of public funding of election campaigns can ensure an element of equity and access to the electoral process". I assume that statement is the basis upon which your party supports public funding?—A. Yes.

Q. That being so, I am a little at a loss to understand why, or the basis upon which, your party has fixed upon 4 per cent as the threshold. What is the rationale for 4 percent rather than 3 per cent or 5 per cent, or 10 per cent?—A. Basically our experience with the Federal Act has been one reason why we came to the conclusion of 4 per cent as being the ideal amount; to achieve as high a level of consistency as possible between the Federal and the State Acts. We considered 4 per cent to be a fair and reasonable amount. We experienced concern with any amount higher than that. We consider 4 per cent to be one way of eliminating people who do not have proper or broader public support, while still not prejudicing smaller political groups.

Q. I find a little logically inconsistent that you advocate a threshold of 4 per cent for obtaining public funding, yet I presume that you would in no way support a

addressed ourselves to areas of concern with regard to public funding. The mechanics of free media time is something we would prefer to address in a further submission.

Q. I am glad to hear that you have not really collected all your thoughts at this time. If you had, I would have asked you beyond that point perhaps whether you saw practical problems with parties being allocated time according to their previous vote. That could result in one or two parties receiving 30 minutes a night, and lesser parties receiving perhaps 10 seconds a night. There is also the problem of untried or unaffiliated candidates, particularly in by-elections where there may be 10 or 15 candidates. Also, when one considers the electronic media in Sydney, it is possible there may 200 or 300 candidates seeking an allocation of free air time. Do you have any further thoughts on those matters?—A. Yes, we need to consider the question of registered political parties, and what would be fair and reasonable. I do not think the major media outlets would be terribly happy to allocate hour upon hour of time to election advertisements at the expense of their program scheduling. They are areas that need to be further examined. Other matters for consideration are whether this should be considered on a candidate or a political party basis, similar to electoral funding. However, we believe this area has potential to reduce the ballooning effect of electoral expenditure and needs to be further examined.

Q. Reducing the ballooning effect of electoral funding prompts the question addressed, I think, by Reverend Nile, of who ultimately pays. If there is free air time on television, surely the purchasers of Weetbix and Omo pay. What is the difference between disguised consumer electoral funding and direct electoral funding?—A. Indirectly electoral funding pays for some of that at the moment, by political parties being able to claim their advertising.

Q. But you said that one system costs, and the other is free?—A. With regard to it being free, obviously at the moment the ABC allows free advertising. That has not adversely

affected ABC broadcasting during election campaigns.

Mr EGAN: But they do not have to make a profit?—A. Certainly. Many commercial stations do, but they also make community announcements. In light of the importance of political campaigns to this State, a community announcement would certainly fall in that category. If consideration is given to broadcasting areas, a reasonable amount of advertising for political parties can take place. Each commercial station gives every leader of a political party free advertising for their policy speeches. Many policy speeches run for up to an hour. That has not had an adverse affect on the finances of broadcasters.

Mr SOURIS: When you are collecting your thoughts for your next submission could you also address the question of the cost of allocated air time and the cost of considerable market research, polling and so on which goes into the preparation of messages, the physical production of material and actual air time? Are you talking about making available 10-second slots which may or may not save $500 per 10 seconds when $10,000 is involved in the preparation of an advertisement?—A. At the moment we are given X amount of air time. It is up to each political party to come up with what will go into the advertisement. The Australian Democrats do not have production costs and do not have the money to produce glossy advertisements. We mainly have a candidate either for the Senate or for the Legislative Council talking in front of a camera. That at least gives us equal access to the media. It is up to each political party to decide what is put in an advertisement.

Q. Let us go back to equal access. What do you mean by equal access?—A. We need equal access to the media.

Q. You said there would be proportional access?—A. I also said there are areas of concern, particularly for Independents and so forth.

Q. Even amongst the parties?—A. There is a need to have equal access to the media. At present this is limited only to those parties which have access to it. At the moment the

Democrats and other smaller groups have limited access.

Q. A political party is created by registering it. Conceivably there are a dozen or two dozen political parties in each electorate. If we establish a system of free air time, obviously the way to go would be to become a political party. One political party might say, "Bring back hanging". Should that political party have equal access? How did the Australian Democrats start if that party had no candidates in existence prior to a certain date?—A. If there were community support.

Q. How do we judge that?—A. From previous electoral experience or, in the case of the Independents, people who are standing for the first time.

Q. We have just had a rash of murders which was not an issue at the last election. We now have three political parties that have variations on the theme of capital punishment?—A. Then there appears to be some electoral support.

Q. If there appears to be electoral support those parties should have equal access to the media?—A. Should we prevent a political party from gaining access to the media just because it was not in existence at the time of the last election? I reluctantly mention gallup polls.

Q. You do not use polling?—A. It is an avenue. If a party had a degree of independence and had no electoral presence in the past, it could seek free advertising via the Public Funding Authority and the Australian Electoral Commission. At least that would give media access to those candidates who may not previously have had access. The Committee needs to examine the free advertising area and this is something the Democrats will address in further submissions.

Q. Are there any other aspects that you wish to address?—A. There has been major expenditure in the media area. The Democrats are extremely concerned about directing that expenditure into direct mail.

Q. You have not mentioned taste and editorial censorship constraints when a member of your party appears before a camera. Other groups may prefer the shock, horror type

advertisement?—A. At the moment the media is controlled by advertising legislation. Any advertising by political parties should be in line with other advertising and should comply with advertising standards.

Q. So the only constraints that would apply would be existing advertising constraints?—A. Certainly.

Mr PHILLIPS: I am interested in pursuing a matter which you have raised in your submission. You say that there should be electoral funding in kind rather than in money; for example, access to electronic media and direct mailing. Why have you stopped there? It seems to me that you have picked two items which are flavour of the month campaigning methods. Why did you not pick access to local newspaper advertising, signs, and how to vote distributions? Why have you restricted yourself specifically to two methods?—A. We have done this because of experience in Australia and worldwide. The media and direct mail are two major sources of electoral blowouts. We would certainly address ourselves to other areas. Experience in the United States of America has shown that at the last congressional election held last month approximately $2.5 billion was spent on media advertising alone. The United States certainly has a larger population than Australia but this media advertising escalation has become almost prohibitive for candidates wishing to run for the Senate and so forth. A candidate needs the money before he or she can stand for election. We would not like a similar situation arising in this country. To give another example, from 1985 until the last election, expenditure on Federal election campaigns has increased fivefold. The other area which is increasing significantly is direct mail.

Q. From my understanding of your submission, you support electoral funding in kind rather than in dollars?—A. Certainly in kind. We perceive electoral funding as meeting the financial commitments of political parties as well as allowing equal media access and a fairer democratic process for all political groups. Providing in kind alternatives to funding is one way of providing access to a fairer democratic process.

While we initially look at financial ways of controlling it, we should also look at other ways such as any in kind alternative that can provide equal access to all political groups to the political process.

Q. More specifically on the question of literature, your recommendation at page 16 is that:

> Consideration be given to the introduction of free delivery of one piece of literature through Australia Post from candidates to households in their electorates to supplement public funding.

Do you see that happening for all candidates in a particular electorate?—A. If that candidate wishes to make use of that facility, we see it as one way of allowing each candidate access to their constituency and to actually reach it.

Q. Do you see them in separate envelopes or in one envelope?—A. I can only cite a recent case when the Democrats do our mailouts, when we preselect for each position, either for a candidate for the Legislative Assembly or a Council seat, they are all placed in the same envelope due to financial constraints. We would see some problems in doing that for each Legislative Assembly and Legislative Council seat. We would favour doing them individually. If there are financial constraints, placing them in one envelope is one way of controlling that.

Q. By allowing every candidate to advertise through the mail——and, as you said, direct mail is a growing area of expenditure——are you not allowing candidates, or any one who wants to stand and promote an idea, philosophy or themselves, the opportunity to do that through the media, while at the same time there is a restriction of 4 per cent to stop people doing that in other areas?—A. Yes. The problem in the past, while I would stick to the 4 per cent as being the level, where the purpose of electoral funding is to meet that public support, sometimes that public support cannot be gained unless that person can at least put out their ideas. Anyone standing as a candidate has a philosophy or set of reasons for standing. At present there is some restriction in country seats where huge distances must be covered. In those circumstances candidates who wish to run, who may have support only in their country

town, are restricted in actually getting their message across and achieving the 4 per cent. We see it as necessary, for the development of the political process, to at least allow those persons to get their message out rather than restricting them. If that message is getting out, they receive their 4 per cent and their public funding as a result.

Q. Are you not saying that the public purse should pay for anyone who wants to get a message out to everyone in an electorate, a message about their views and perceptions, and then see if they have any support for those views?—A. Currently this is what we do with referenda, where we give a yes or no case, giving each side of the story. Political campaigns cover more than the black and white yes and no cases of referenda.

Q. Surely for the purpose of promoting a candidate it should be the other way, where he or she goes out into the community and gets financial or physical support from the community, gets backing and then uses that as the medium to distribute information in the electorate?—A. Basically it would be easier to do that particularly where a candidate who wishes to participate in the electoral process is unable to do that, perhaps due to a physical handicap or age or a concern which may only affect those in a very small area of the community. We see it still as an important issue to be put up before the people as a consideration. Should we therefore prevent access of those people to the political process because they cannot get financial assistance or people to work on a polling booth or to go doorknocking and so forth.

Q. Do you not see that that would cause what you want to stop, in that there would be a sudden explosion of an enormous number of candidates? I can go and put down my name as a candidate, or the names of a groups of my friends in a whole range of electorates, and I can have information distributed to everyone.

Miss KIRKBY: Only one piece.

Mr PHILLIPS: It is one piece per candidate per electorate. You do not see a problem with that?—A. Should we

prevent access of the voting community to be fully informed about what people are voting for?

Mr MILLS: In items 1 and 2 of your summary of recommendations, where you deal with replacement of the two political appointments on the authority, you seem to be implying when you get into the guts of your submission that somehow the Election Funding Act should be a sterile process. I put it to you that the whole thing is part of a political process. It is indeed very political; it cannot become independent of the political process. The question I would like you to amplify for me is why you think that a couple of supposedly independent bodies like the Independent Commission Against Corruption or the Auditor-General would overcome the inertia that I think you said was another criticism of having the political people involved? Why would those independent people solve any of the problems with the funding authority that cannot be addressed by the existing people?—A. The main reason for those replacements is that the Act has to be fair and also seen to be fair to all political groups. As I have mentioned previously, the appointment by the Premier and the Leader of the Opposition precludes people on the crossbenches and Independents from appointment. The establishment of a representative from the Independent Commission Against Corruption and the Auditor-General's area would ensure that those positions became permanent, that they came outside the realm of political appointments to those of operation under the career public servants who are not appointed within the political process as appointments to the area. By doing that, at least it can be said that the Act is trying to make it as fair as possible so that each member of that board has no major political allegiance to any political group or has not been appointed by any political person to get that position.

Q. Why not simply add those two to the authority rather than replace others?—A. By adding to them we see no requirement to continue to add to it. The current three members are probably sufficient. The specific skills of the Auditor-General and a representative from the Independent

Commission Against Corruption we would see as sufficient. By continuing to add you could come to the point of how many more do you add to the actual organisation? By continuing to leave those two appointments there, it will continue to bring under question the independence of the commission.

Q. Moving on to items 14, 15 and 16, which deal with declarations, what are your reasons for suggesting in item 14 that there should be annual declarations?—A. The reason for a brief look at donations is the time between political campaigns which take place. By at least having annual returns of donations, and in our submission we have requested returns on all income to political parties, we would see that as being a way of having political donations on the public record, where they are coming from, whether there has been any influence by donations to make a political decision, and whether——

CHAIRMAN: I am sorry to interrupt, Mr Terrett. You were reading through these things earlier, Mr Mills. I formed the view that items 14 and 15 related to the disclosure aspects. As I said, I want to concentrate, in accordance with the Committee's earlier decision, on the mechanical parts of the Act at this stage, because we will be dealing with the disclosure provisions at much greater length later on. Just for the sake with getting on with our business today, it might be easier to concentrate on matters relating to the mechanics of the Act rather than the specific disclosure provisions. I realise that item 14 is a little confusing, but we are now discussing donations again, which falls into the area of disclosure provisions. I might say that I am not worried about item 16. It is part of the mechanical processes of the Act. It relates to a period of time for declarations to be submitted. That is just a mechanical question on whether it is 90 days or 120 days.

Mr MILLS: I would have to accept that ruling. In relation to item 16, what is the argument for going from 90 days to 120 days? Why should that be different from the 30-day declaration period required under item 14?—A. The reason for extending the period is to prevent a situation occurring where

donations can be held off and not disclosed because of the period.

Q. Do you have an example of something you know of?—A. It allows the situation to occur. The reason for extending is that most companies allow 90 days in which to incur expenses. This would allow a political party to say, "Can you hold off for 90 days?" and overcome the need to disclose it because it has fallen outside the 90 days and, therefore, there are fewer requirements to disclose and a donation is received in relation to an election outside the electoral requirements and still being paid for. It is an area of concern which may arise, and we recognise that. The reason for going to 120 days is that it is outside the normal 90 days in which credit terms are exceeded.

Q. Going on to item 17, to provide that people like broadcasters, printers and publishers should be putting in submissions, you have said in the expanded version that that is to comply with the Federal Act, why do you stop at broadcasters, printers and publishers? Why not include advertising agencies, artwork production companies, market researchers and all those sorts of people as well?—A. The main reason for those is clearly they are the major areas where expenditures are placed at the moment. We felt keeping it parallel with the Federal Act of disclosing for broadcasters and printers is also a way. The other reason also is that if a piece of documentation, a broadcast is done which it is not clear where that particular publication actually comes from, for instance, if a political party wishes to do a brochure and not put its name to it but wishes to get it published, by at least allowing a printer or a broadcaster to put a return in, it will be clear where that broadcast or printed material is coming from as a way of tracking back through any area which may not have appeared under a party's return or may not appear in any other case. It is one way of keeping a control on what actually is being produced, broadcast, and who is actually doing it.

Q. Are you suggesting that all such companies in those

areas should be required to put in a return?—A. Certainly and that is the case under the Federal Act.

Q. I will leave that Pandora's box alone.

Mr MURRAY: I put it to you that your provision there to replace the Premier's member with the Auditor-General is just a populist suggestion because what you are really saying is that you are going to take away the independence of the Auditor-General. Do you realise that the Auditor-General's job as an independent person is to audit the Electoral Funding Authority. If you put him or his deputy on that authority you take that independence away. If there is a problem the Auditor-General can be called in by anyone within the authority or the Government to look at it. By placing the Auditor-General there you are taking away one of the most powerful weapons that the Parliament has——and he is appointed by the Parliament not by the Government. You are taking that out of the public sphere. You are making a eunuch of him?—A. I think it is necessary to have the expertise of an area like the Auditor-General - - -

Q. But what expertise has the Auditor-General got in politics. I would have thought the Premier or the Premier's representative would know more about elections than the Auditor-General. He is only an auditor. If you have a board of a hospital, you do not preclude doctors from that. You put doctors on it because they know something about it. Obviously you put the Premier or his representative on it because they know something about the rorts and other aspect?—A. I think our party would argue that this is not a political process but the administration of public funds.

Q. In your earlier evidence you said that with ICAC and other areas there has been rorting and in your response here you indicated that and you said you have to have these independent people there?—A. I think if you want to solve the problem you get somebody who knows the system and put them in there. In terms of placing an ICAC commissioner or the deputy commissioner to replace the Leader of the Opposition's nominee is the same situation.

Q.If there is a problem, how can ICAC come in and

investigate an organisation when the commissioner for ICAC is on that organisation? Certainly I think prevention is better than cure.

Q. But there is a conflict of interest. You cannot get ICAC to investigate a member of ICAC can you?—A. I think most of the time they investigate the activities of political parties and not the public funding authority.

Q. Why put them on the public funding authority if they are not going to do that work?—A. Certainly it is one way of preventing and ensuring that some of the recommendations and concerns expressed from ICAC, areas within ICAC, are being addressed and that the sheer independence of both the Auditor-General and ICAC will be one way of removing some of the political influences from the current appointments.

Q. What you are saying is that ICAC undertakes a study and makes a recommendation to the authority and a member of the authority then who made that recommendation picks it up again. It will not work that way. There is no independence there.

Mr SOURIS: If there is an accusation of corruption, what do you do about it?—A. Certainly there are two other areas, both the Auditor-General's area——if the Auditor-General is on there and he is not sufficiently doing his job in that area, what actually do you do at the moment with the Premier's appointment and the Opposition's appointment within the commission if there is corruption?

Mr MURRAY: ICAC is independent and it can, on its own volition, undertake an investigation?—A. Certainly the independence continues.

Q. If you appoint the commissioner to that body it will not have the same independence as it has now. It will not investigate itself?—A. The thing is it is only a representative from ICAC: it is not ICAC itself.

Q. No, you said the commissioner or his deputy. That was your submission. There is no one more powerful in ICAC than those two. They make the determinations as to what investigations should be undertaken. I will leave that with you. I believe you should have a closer look at it. You

indicated in your submission that it should be amended to provide for payments to parties, groups, and Independents, consequent upon election of a candidate to the Legislative Council . Now my understanding is, and I seek clarification, section 61 already provides that. It says, "Candidates who have been nominated for election to the Council are subject to, in accordance with the Act, eligible for payment from the central fund"?—A. I remind you that in the case of Richard Jones there was no funding available.

Q. Would you explain to the committee why?—A. The reason being whilst the Act requires the deposit, he was entitled to a deposit. As he did not receive the sufficient quota for electoral funding, which is first preference votes, no electoral funding was available because the quota was not reached. However, that overrode section 61 which says that electoral funding is available. Certainly we would not have just stepped backwards. We certainly looked very closely at that and in fact we did submit our returns to the Electoral Funding Authority for funding which we never received.

Q. Mr Chairman, could I ask the witness to put in a submission in writing relating to that instance so that all members may look at it at a later stage?

CHAIRMAN: Yes.

Miss KIRKBY: We did take legal advice at the time.

Mr MURRAY: I do not think we have time to go into the ins and outs of it here. You also have indicated that there should be a new formula based on a fixed dollar value for every first preference vote. I was astounded that any political party would recommend that. In your notes to the recommendation at page 14 you say, "As can be seen from the following table, adoption of this public funding entitlement, when applied to results from the 1988 State election, would have resulted in a saving of $1,383,104 of public moneys". So you are putting in a submission which in effect says that under this formula there would be less in public funding to parties. Yet earlier in evidence you indicated that was the basis of this public funding: to allow for a more democratic form of

election?—A. We bring this submission in relation to the Federal Act, which currently states that funding is provided on the basis of cents per vote. We feel that is sufficient. Whilst there is a reduction in the overall amount, we operate quite effectively under the Federal Act at the moment in this State. Certainly there was over expenditure in 1988.

Q. I did not overspend in my electorate. It cost me $14,000 out of my own back pocket. So I can assure you I am not in favour of any reduction in this funding?—A. We are concerned to keep public funding even. Whilst our formula would result in a reduction, we used the same formula in our Federal campaign and sufficiently we are able to continue. Therefore we feel that by putting it on the basis of cents per vote the problem would be addressed. You may feel that the cents per vote which we used in this example—the Federal cents per vote at that stage—may have been too low for the State election. Whilst we acknowledge that there is a reduction there, I think it is something for the committee to look at.

Q. So you are gung ho on having a reduction or you are having second thoughts?—A. We are quite happy to continue in the same vein as the Federal system.

Q. From a personal point of view, I do not approve of the Federal system, because the party hierarchy gets the money. At least under the State system we can get our hands on some of the money and use it for our own purposes. But that is another issue. You have been questioned in relation to electronic political advertising. You say that should be banned. What do you mean by electronic political advertising? Apart from television and radio, do you include electronic signs?—A. As currently covered under the broadcasting legislation. The definition currently is television, radio and cinema advertising.

Q. So that is already in place. You have also suggested that there be a free delivery of one piece of literature through Australia Post for candidates. Do you mean for the lower House or do you mean for the upper House?—A. Both Houses

are equally important and I feel that therefore they should have——

Q. But in reply to Mr Phillips you said only one piece per household from the party. So what you are really saying is that the Labor Party can put out one for the upper House No. 1 candidate or for every candidate in the upper House and then put out one for the lower House? On some occasions the National Party——I am not deprecating——for political purposes will run two candidates in the one seat. So that party could get two pieces of literature distributed free?—A. I think there are avenues of addressing this, whether individually or in a booklet format. They are all areas that need to be examined. I think the important side of it is at least to give equal access to every candidate.

Q. I tell you what I would do: I would have 20 dummy Labor Party candidates all line up in the seat of Drummoyne because I know each one of them would get a free distribution of literature, which would be cheaper than the deposit that they would lose when they stood.

Miss KIRKBY: You would stand in grave danger of splitting your vote.

Mr MURRAY: I do not want to have my electoral funding determined by the electoral funding Act saying I must send out a piece of literature, because most of my deliveries I get done free. You have said that that should be a supplement from the public funding so that will be less money that I get. I do not want the public funding authority determining that I should deliver to every household when there is an area that I never deliver to and in another area I deliver four or five pieces of literature to each household. I would rather have the money in my hand and have the flexibility to determine how I used my money. Your suggestion may be fair enough in strong party seats but in marginal seats I think it would be counter-productive. Fair enough?—A. Yes.

Q. As John Mills asked, what sort of mechanism would you set up to check that all printers and all broadcasters and all publishers in New South Wales——I have had stuff done outside

New South Wales, therefore you would have to go into the ACT, Queensland, South Australia——

Reverend NILE: Singapore.

Mr MURRAY: Singapore. The printers would all have to put in a statement telling the electoral funding authority whether they have undertaken printing for every candidate in the upper House and the lower House. You would have to cut down every forest in New South Wales to print the forms necessary to process them?—A. It certainly has not posed a problem with the Federal Act. They all need to put a return in under the Federal Act at the moment, and it has proved to be no problem.

Q. An Act is only as good as the way in which it is policed. Because it is an Act does not say it is a good Act just because it is there. People may abuse it. Unless you have a system to check on the validity of that you might as well not put the Act together. It becomes a piece of paper?—A. Under the New South Wales Act electoral material needs to be registered and the name of the printer is placed on it. It shows who is required to put returns in. When the Democrats go to our printers we always advise them accordingly. They are required to put a return in under the Federal Act. We never see that as a major problem.

Q. You have said that the Local Government Act should be amended to provide for full disclosure of income and expenditure of candidates for local government elections. Who will oversee this? Will the Electoral Funding Authority do that, or will you set up a parallel local government funding authority?—A. As from the next council elections in September next year they will be administered by the State Electoral Office. We see that as the administration of local government with regard to donations to candidates and expenditure by candidates coming equally at the same time through the State Electoral Office. The Local Government Act is a State Act, and the ultimate responsibility is that it be overseen by the State? The last election was overseen by the State Electoral Commissioner. You are talking about electoral funding. Will you set up a separate electoral funding

authority?—A. Certainly within the same authority. Regularly a candidate for local government will also be a candidate for State Government. There is some parallel between local government and State elections. Certainly the Act should parallel with local government as well. We see the disclosure of any donations that indirectly come to political parties via local government.

Q. Is that within our terms of reference?

CHAIRMAN: I take the view that it is not.

Mr MURRAY: Obviously we shall consider that. There are 176 councils in New South Wales who elect on average 12 people. That results in 20 or 30 people standing at each election; although in undivided areas there may be up to 70 candidates. It will be a mammoth task, but the sentiments are honourable. The implementation will be very difficult?—A. Certainly full disclosure at all levels of government is something we should try to achieve.

Mr MATTHEWS: Many of the matters I would have raised with you have been addressed. However, at recommendation 18 on page 4 you say that a public register of lobby groups and their clients should be established. Would you like to expand on that and suggest the criteria that should apply to defining a lobby group?—A. Over previous years we have seen a growth of groups, who are not political parties but who become actively involved in the political process. They include groups who lobby parliamentarians and political parties. They include private lobbyists. There are third-party groups, such as the Australian Conservation Foundation, who are actively involved in the political process. At the moment none of those organisations, though they may be actively involved in the political parties and distribute how-to-vote material, are compelled to disclose the source of their donations and funding. They are actively involved in the political process, but are outside the Act. Our sentiment with regard to lobby groups is that they should be publicly registered. That would acknowledge that they play an active role, perhaps not in putting up candidates, but in having some input. A local

resident action group in a particular town may actively campaign for a particular candidate and receive donations from a whole group of people. That group may directly or indirectly distribute how-to-vote material or other literature in favour of a particular candidate. It plays a role in the political process that is just as active as that of any political party. Yet at present lobby groups are outside the Act.

Similarly, during a term of parliament lobby groups and private lobbyists have some input into the political process by lobbying members of parliament. Yet we know very little about who is funding those organisations. Sometimes it becomes quite clear. Directly we are not aware of their source of funds. We seek an open political process whereby all donations and expenditures of these groups who play an important part in the political processes in New South Wales, and the disclosure of all groups who wish to take part in the political process, should be much more open and available. The registration of all political process will identify who the groups are. If someone wishes to be politically active as a lobbyist, he must be registered and his identity become part of the public record.

Q. I can understand your motivation, but do you not see the difficulties? You have not really answered my question as to what criteria you will apply in defining a lobby group. An individual or a group of people or perhaps a business organisation may not be skilled in the political process. However, it may wish to present a point of view. Rather than do that itself in an unskilled way it will seek out a lobbyist to assist in the presentation of the point of view. The lobbyist may or may not be a professional lobbyist. I see great difficulty with the definition of lobbyist, and I see enormous difficulty in compiling a register?—A. Should individuals or groups continue to be excluded from an Act that is intended to identify who is involved in the political process? I example the United States system in which all political action committees are registered. The point you raised has not proved to be a difficulty in the United States

system. In your example of a business seeking to put a point of view, certainly we would not see any reason why that business or a professional lobby group should be prevented from doing so. However, if that company employs a lobbyist to lobby for it, and if it is not disclosed that that lobbyist is a professional, we do not fully disclose who is involved in the political process in this State.

Q. Turn it round the other way: an organisation or a company that does not require the political skills of a lobbyist, which is competent within its group to present a point of view to a Minister or a member of Parliament, would not be registered?—A. Certainly.

Q. So that information would not be disclosed. What actually are you seeking in attempting to identify these people?—A. We are seeking to identify the individuals or groups that are involved in the political process of this State. I spoke of what happens between elections but I am specifically looking at the electoral process. At least by acknowledging who those groups are will disclose who is campaigning for various areas and so forth.

Q. Let me take you back a few years. You may or may not remember that a gentleman by the name of John Laird decided to take up a strong political position. To the best of my knowledge he expended $100,000 of his own funds in presenting a comprehensive political point of view. How would your definition apply to him?—A. He would certainly have become part of the political sphere. If he were seeking to influence people he would have been one of the people who should have been registered.

Q. I do not think you have given me a full answer. Nevertheless, I appreciate this is a wide subject. I suggest that you should examine it again quite closely?—A. Our main area of concern is those people who at present are not covered by the Act who play an active political role in the electoral process.

Q. In a sense, it could even be intimidatory. After all, elected members of Parliament should be—and in the main

are——available to representations from the electorate. If you take that far enough it could become intimidatory?——A. It could, but it should not.

Miss KIRKBY: With the register of political lobbyists in the United States, is it your understanding that there has been this feeling of intimidation that Mr Matthews has just mentioned? When you were in the United States recently for the congressional elections did you obtain any further information about the registration of lobbyists?——A. The registration of lobbyists is an effective way of identifying people. There was very little intimidation in the United States. People accepted this as being part of the political process and there did not seem to be a problem. People accepted that, if they wished to form a political PAC, it was just a matter of course that they had to register. There were no problems in its administration.

Reverend NILE: Some of the matters the Australian Democrats wanted covered are covered in the Electoral Funding Act. Not only political parties have to register material; other groups that want to hand out how-to-vote cards have to register with the Electoral Commission.

(The witness withdrew)

JOHN JOSEPH DELLA BOSCA, General Secretary, Australian Labor Party, New South Wales Branch, 377 Sussex Street, Sydney, sworn and examined:

CHAIRMAN: Did you receive a summons issued under my hand to attend before this Committee?—A. Yes, I did.

Q. We have received a submission from the Australian Labor Party. Is it your wish that that submission be included as part of your sworn evidence?—A. Yes. The submission reads:

Submission to the State Joint Committee upon the Process and Funding of the Electoral System

by the Australian Labor Party (NSW Branch)

1. Preamble

To stand candidates in State elections political parties need considerable funds. Most of this money is spent on radio and television advertising, the cost of which has rapidly escalated in the last few years.

Even though on the State level there are provisions for public funding, there is a considerable gap between the real cost of the campaigns and funds received.

As a result, all political parties have become much more dependent on corporate donors and private donations. This has a number of implications for our political system and the operations and campaigning methods of the political parties.

Therefore the Australian Labor Party has welcomed the announcement of the establishment of the Joint Select Committee to deal with the range of issues associated with the funding of the electoral system.

Having regard to the terms of reference of the above Committee, the submission by the Australian Labor Party will deal with two major issues:

- the disclosure of true sources of funding to candidates, groups and political parties
- the disclosure of the expenditure of funds by candidates, groups and political parties.

2. The Disclosure of Donations

2.1. The Cost of Election Campaigns

As pointed out earlier, the cost of election campaigns has escalated in recent years. As an example, the costs for radio and television advertising alone has doubled between 1984 and 1987 federal election campaigns and more than doubled between the 1987 and 1990 federal election campaigns, for the same amount of time purchased. During the 1990 federal election campaign the ALP alone spent more than $16 million in advertising nationally.

This increase can be applied to State election campaigns, with the costs being covered by the State branches of the political parties.

It has to be pointed out that the costs incurred by political parties during election campaigns are not private costs. One of the main reasons is that while parties are voluntary in terms of their organisation, they are public in terms of their aim and impact.

The implications of the increasing financial burden associated with election campaigns are serious with the political parties being forced to divert more and more time and resources from the area of public education and other, meaningful forms of communication, towards advertising.

One of the consequences, which should be of public concern, is the imbalance between the various means of transmitting information. While advertisements are useful in creating images and perceptions, they tend to include little detail on the policies of the various parties. The resulting lack of a more in-depth analysis of the issues may be detrimental to the informed choice of voters.

To raise the amount of money needed for an election campaign, the parties have to reach far beyond their membership base and persuade donors to contribute larger and larger amounts.

2.2 Corporate Donations

The Act does not place limitations on the upper limit of political donations, but requires reporting, disclosure and publication of all contributors to parties exceeding $2,500 and candidates exceeding $500 during the period prescribed by the Act.

With the increasing reliance on donations unrelated to ideological commitment, there is community concern that financing election campaigns through such contributions has brought into question the integrity of our political system.

Recent inquiries by the Fitzgerald Royal Commission in Qeensland and the Independent Commission Against Corruption (ICAC) in NSW have highlighted this point. Although the Australian Labor Party does not concur with all of the ICACs conclusions in dealing with these issues, there is no doubt that the resolution of the debate would advance the interest of the public in this State.

The NSW Branch of the Australian Labor Party has recognised the problem of the disclosure of donations for some time. Indeed the formal position of the the NSW Branch of the Australian Labor Party is embodied in a resolution passed at the Administrative Committee meeting on 5 February 1988 which reaffirmed the commitment by the ALP to ensuring that all donations for campaign purposes are disclosed as required.

This resolution was subsequently adopted by the 1988 State Conference.

At the same Administrative Committee meeting the NSW Branch called for the "introduction of national and uniform public funding and public disclosure laws governing all political contributions".

2.3. The State and Federal Laws - the Need for Uniformity

The disparity between the State and federal electoral funding laws seems to be one of the major causes of the problem.

On federal level, the Australian Labor Party and the Democrats recently recommended some radical changes to political advertising and the law on the disclosure of political donations to political parties. The Committee of Inquiry into the Conduct of the 1987 Federal Election and 1988 Referendums was concerned that heavy reliance by parties on corporate sponsorship risks the distortion of our open democratic system.

The NSW Branch of the Australian Labor Party generally supports the recommendations contained in the Committee's report entitled *"Who pays the Piper Calls the Tune"*.

When considering the State electoral funding system, the emphasis in the recommendation on electoral funding, passed by NSW Branch of the ALP Administrative Committee, on the national approach to the electoral funding laws is of utmost importance.

As most parties operate on the federal and state levels, and fundraise through State branches in all States as well as Canberra, any amendments to State legislation would have limited effect if there were no parallel and complementary amendments to the federal laws.

While stressing the need for uniformity, an interim measure could be re-writing of Section 83 so that Parties be required to lodge an audited statement (as per Section 93) each year instead of after each State election.

Section 93 should also be redrafted to provide for the Auditor atesting to having examined all of the Party's operating accounts and to having been provided with other documentary evidence such as correspondence from donors concerning the intention of their donations, details of fundraising, to ensure that funding laws have been complied with in every respect.

2.4. The Position of the NSW Branch of the Australian Labor Party

The NSW Branch of the Australian Labor Party supports increased accountability and more efficient and equitable use of public money.

At the same time the NSW Branch of the Australian Labor Party reaffirms its commitment to the public disclosure of all campaign donations within the context of the introduction of national public funding and public disclosure laws and controls on the cost of broadcast political camapaig advertising.

It is unlikely that any achievable State reform would prevent rampant abuses. This is evident from the so called "Community Polling" episode during the last State election, where contributions were allegedly re-directed from Liberals MPs campaign funds into campaign funds of the independents with a possible intention to influence the way they allocated preferences.

The relatively limited detail available regarding "Community Polling" which involved transfer of money and funds accross State borders also underlined the fact that this matter must be dealt with on national level.

It is a matter of public record that at present the National Party, the Liberal Party as well as the Australian Labor Party operate campaign funds in other States and territories that may be directed to NSW for election expenditure purposes. These funds have similar purpose to a blind trust.

In line with the *"Who pays the Piper Calls the Tune"* report findings the NSW Branch of the Australian Labor Party believes that the issue of disclosure should be linked to the "stick" and the "carrot" approach to disclosure as a way of introducing bans or a system of "free" time with electronic broadcasters. This would include a system of joint Federal or Federal/State compensation to broadcasters for providing free political information in election campaigns.

However, the NSW Branch of the Australian Labor Party believes that such provisions on the State level would achieve little unless a national approach is implemented.

In the meantime however, the NSW Branch of the Australian Labor Party believes many of these concerns can be met by way of placing the onus of enforcement of the provisions on wide ranging audited statements provided by the parties. This would save the introduction of an expensive investigative bureaucracy which would be of limited value.

The NSW Branch of the Australian Labor Party also believes that a national/State approach should also apply to the actual funding of political parties consistent from State to State. If such a system were not possible a national/State approach for funding of political

education purposes, not linked to election campaign activities could certainly be dealt with on a national/State basis.

2.5 The Mechanism of Change

The Prime Minister has recently unveiled a new proposal on a special Premiers' Conference to deal with the exchange of powers between the federal and State governments. The Premier of NSW, Mr Greiner, supports in general these moves for better co-ordination.

The questions of election funding are of substantial public significance because of their impact on the operations of Parliamentary democracy in NSW as well as in Australia.

This is underlined by the fact that the four national political parties - the Australian Labor Party, the Liberal Party, the National Party and the Democrats operate within seven different State legislative contexts as well as the Commonwealth legislation.

The NSW Branch of the Australian Labor Party believes that the issue has a place on the ageda for this Conference.

3. The Disclosure of Expenditure

The NSW Election Funding Act 1981 provides for an audited return covering the parties' and candidates' election expenses. These returns only apply to the Party activities after a particular campaign. The expenses must be itemised and explained.

It is in the area of the disclosure of donations that NSW Government can act expeditiously. The NSW Branch of the ALP believes that the law should provide for the disclosure of all donations, including those for non-campaign, administration purposes. However the ALP believes that this should be part of the "carrot and stick" approach in regard to broadcast media advertising cost in elections.

While the ALP has tried to introduce disclosures for some time, the representatives of the Conservative parties have argued strongly against full disclosure.

The Dissenting Report to the *"Who Pays the Piper Calls the Tune"* Report, by Mr Michael Cobb, Senator James Short and Dr Michael Wooldridge finds the recommondation on full disclosure "offensive" and "not be of interest or value to anybody, except perhaps the party's political opponents." Clearly, this view is dubious in the light of recent conclusions drawn by the ICAC and the Fitzgerald Report in Queensland.

Another issue of attention is the period prescribed by the Act relating to the obligation of candidates and the parties to provide a declaration of political contributions (Section 85). The ALP believes that the period commencing on the day following the polling day for that previous election should apply to all candidates and parites and not only to those who contested the last election.

4. Recommendations:

1. That the matter of funding of the electoral system and political parties be placed on the agenda of the Special Premiers' Conference on the Federal/State Relations in order to implement a national system of election funding and disclosure linked to the introduction of free time or subsidised time on broadcast media and to prevent interstate fund transfers.

2. That the Election Funding Act 1981 be amended so as to provide the Election Funding Authority with the power to require yearly statements from the Parties' auditors on donations to funds.

3. That the provision in the Act relating to the disclosure period (Section 85) be amended to provide for the disclosure of donations and expenditure during the period commencing on the day following the polling day for that previous election for all candidates.

4. That the Election Funding Act 1981 be amended so as to provide for the disclosure of all donations, including those for non-campaign, administration purposes. This approach should be part of the "carrot and stick" approach in regard to broadcast media advertising cost in elections.

CHAIRMAN: In the process of answering questions, feel free to elaborate on anything in that submission. Also, if in the process of answering questions you think that the committee has addressed an aspect only partly that needs elaboration, please elaborate if you wish. The process is that I will ask a series of questions and then other members of the committee will ask further questions. Given that the submission from the Australian Labor Party is directed more to the question of disclosure, I will try to keep the questions reasonably brief, though it is pertinent to raise any matters that were mentioned by the previous witness from the Australian Democrats. Do you have a view on what the threshold should be of public support before public funding is attracted, and if so what?—A. My answer to that has to be limited to a personal view, as the administrative committee or the party conference has not adopted an express view on it. My view—and I think it would be generally supported by my party—would be that while the present system of multiple thresholds in lower House contests, because the threshold is based purely on level of support from a previous election, does not necessarily lead to any abuses, it leads to inconsistencies which cause some difficulties. My view in terms of the attraction of funding would be that the committee could examine alternatives to basing the threshold for local funding on other things than the vote at the previous election, although at this stage I cannot provide a guideline as to what that might be.

Q. Given that the threshold in the Legislative Assembly elections is based on the same formula in terms of deposit, which is mainly a percentage of the vote required by the person getting the most preference votes, the point made by the previous witness was that that can vary enormously in a marginal seat where the person getting the most first preference votes conceivably could get only 40 per cent of the vote, through to a very safe seat held by one or other of the parties where conceivably the person gaining the most first preference votes may well get eighty per cent of the votes. So there are threshold differences of the order of 100 per cent.

Do you think there should be a standard threshold or should the current system be retained?—A. I believe that a standard threshold would be a sensible approach.

Q. What do you think or what does the Labor Party think of the pros and cons of public funding generally?—A. I was going to indicate, in regard to the Act as it presently operates, that the Australian Labor Party has a record in the political sense rather than in any other sense, and that is that the Act in its present form was largely introduced by a Labor government. Obviously the Australian Labor Party has a strong commitment to public funding of political parties for election purposes.

Q. Has the Labor Party found any particular unintended or unexpected consequences as a result of gaining public funding subsidies?—A. I do not feel that I could elaborate on any particular unintended consequences of the funding process. I might add that it is our general view that it is very difficult to advance beyond the current regime of funding without looking at the area of disclosure, but I understand that the committee has made a procedural decision about canvassing that issue. Chiefly, I suppose the one difficulty that has occurred is that those parties electing not to claim funds or those candidates not claiming funding have no disclosure applied to them, but I could not elaborate on any particular unintended consequences of the Act.

Q. The area I am thinking of that has been raised in other circles is whether you found that the advent of public funding has centralised or fragmented the party structure or has inflated the campaign cost structure?—A. No. I would suggest two things. The party actually considered in a formal way the issue of the current regime, with some part of the funding going centrally and some part of the funding being localised. As the Labor Party enacted the legislation in that form, the party continues to support the view fairly unanimously that that regime is appropriate in the State sphere. The only thing I would add is that I do not believe there is any evidence that the introduction of public funding is what has led to an

escalation in expenditure by political parties for campaign purposes. I think that is more a result of political competition and general increases in the costs of political communication, particularly broadcasting.

Q. Should the criteria for allocating subsidies be amended in any way?—A. Could you elaborate on what you mean by criteria?

Q. The current rules as to who does and who does not qualify for gaining public funding and what matters are acceptable as costs in an election campaign—are they sufficient as they presently stand or should they be changed in any way?—A. We have not identified any particular concerns. You asked me previously about thresholds. I think the way in which the committee considers the question of the threshold for local funding is of importance in answering that question, but we have not identified any particular concerns.

Q. Have you found that public funding has reduced participation in the political process in any way?—A. I think there is no empirical evidence that that is the case. In any respect what seems to have occurred in terms of any alleged decline in participation in the political process, I believe, is that if there is any anecdotal evidence, it runs contrary to the evidence of public `funding being linked to a reduction in activity in the political process.

Q. Do you think that the entitlement formula should be based on a fixed dollar value?—A. Can you elaborate on that?

Q. Particularly the Australian Democrats' suggestion in their submission that we in New South Wales adopt a Federal system of a fixed dollar amount per vote, or something of that order, as the basis for working out the public funding amount. Is that a reasonable suggestion, in your view?—A. We have not formed a view as to varying the current system in that regard, but I would again go back to my answer to the second question you asked me, and that is, in general terms we have found the system to operate satisfactorily in terms of funding.

Q. This question is not directly relevant to public funding, but if we were to bring in a standardised threshold

system for public funding, would you support the same idea for the return of electoral deposits from candidates?—A. If there was a view formed that the threshold should be standardised for public funding purposes, it would be a rational decision to amend the Electoral Act along similar lines, yes.

Q. Questions have also been raised with us relating to whether the funding authority ought to have the power to inspect party books, records and bank accounts and have power to enter the premises of registered political parties and organisations. If it were to have such power, should it be entitled to do on-the-spot checks or should they be checks with notice given? What is your view on those proposals?—A. Can I take a step back from that question and look at the current position? That really involves disclosure issues, and I would have to skate on thin ice in regard to your procedural ruling on that division between the two. If that were to be the case, a less bureaucratic, more logical way, of doing it would be to provide for audited statements to be lodged with the public funding authority, which is canvassed in our formal submission, so that rather than have a G-man-type approach of people arriving at party offices with summonses, or whatever was required in order to enter the premises and look through records, registered auditors were used throughout the State.

I think every party would probably have a registered auditor under its own rules of association, or whatever was appropriate, and those auditors could be required to lodge a statement with the public funding authority. But, again, I would suggest that that should occur on a yearly basis, a quarterly basis, a half-yearly basis, or whatever was deemed to be appropriate. Our general approach to that question is influenced by our general approach to the issue of disclosure.

Q. Even the current provisions for disclosure, divorcing the question of whether the current provisions for disclosure should be changed?—A. It does lead to an inconsistency under the two relevant electoral laws, the Electoral Act and the Public Funding Act. People currently may make certain kinds of anonymous contributions to political parties. Certain

authorities already have the capacity to investigate those in certain circumstances. I have seen examples of that recently. As a consequence, they come to the public domain.

Q. The only other matter I wanted to raise with you before we start with other members of the Committee relates to the anomaly that apparently caught up with the Australian Democrats in the last election, where, for reasons of which they are providing us with some more detailed legal opinion they received, despite the fact that they won a seat in the Legislative Council at the last election, they did not attract any public funding. Is it your view that that is an anomaly, or is it your view that it is not?—A. Under the current law, it is obviously not an anomaly, but I would think on any reasonable criterion of fairness that a party that achieved election to a seat should be able to expect that it would attract public funding. In regard to that issue, I suppose the very difficult problem this Committee has to sort through both in the expenditure and the disclosure areas is that with the decreasing partisanship in the electorate, the role of two-party preferred support is now of some significance, which effectively is what happened to the Australian Democrats, as I understand, in that election. They attracted sufficient preferential votes through the eliminations to gain a seat but did not have sufficient first preference votes. It is a logical consequence of accepting that if you have a preferential or proportional system of election, as the case may be, that should be reflected in any regime of public funding and any consequent disclosure provisions.

Reverend NILE: In regard to the threshold proposition, Mr Terrett argued that there should be an indication of public support and, therefore, we should have a 4 per cent threshold. Do you agree that the best way to test public support would be simply the primary votes that a candidate or party received and that, therefore, funding should be directly related to the number of primary votes a candidate receives, whether it be 10, 1,000 or 10,000?—A. I think I just canvassed that issue in this sense, that it can be argued, and probably would be

argued, depending on the circumstance, by different parties that a two-party result is as important as a primary vote tally. On the question of a threshold of 4 per cent, I do not know what justification people would use to pick that figure out of air, whether it would be four, five or 10. Obviously for the major parties, the higher the threshold the more preferable in a narrow sense of that party's interests.

Q. There is no logical reason for 4 per cent, then, in your view, except that it protects the major parties?—A. No, I can see no logical reason why one would pick the figure of 4 per cent, except that if you accept the idea of a threshold, there has to be a threshold. The criterion on which it could be established is not one that I am qualified to answer now, which is that in the case of the Australian Democrats, the evidence from the previous witness about that incident indicates that they gained election but, theoretically, or practically, under the law were not entitled to any public funding.

Mr EGAN: I think Mr Nile is asking what the justification is for a threshold, anyway, if a party or a candidate only manages to get ½ per cent of the vote and does not get elected to an upper House, as I think someone once got to the Senate on ½ per cent of the vote. Should they not be entitled to funding, simply on the basis of gaining ½ per cent of the vote?

Reverend NILE: Not for their expenditure, but simply receiving the pro rata amount of money they received. If they got 10 votes, at $1 a vote they would get $10. They might have spent $1 million. There would be no advantage to them if they did not get the popular vote. They are not going to be able to rip off the funding system because they will not get the votes. To put it another way, would the Labor Party oppose a reduction in the threshold to 4 per cent as a policy? Do you simply accept it, or would you oppose a reduction in the threshold?—A. That is something on which the Labor Party does not have a formal policy. Given that there is no formal position by the party organisation, that would become a matter that would be considered by the parliamentary party. I would

not advance an answer beyond that, I am afraid.

Mr HATTON: A register of lobbyists was raised earlier. Does the Australian Labor Party have a view on whether there ought to be a register of lobbyists and what relationship that might have to third parties being involved in election campaigns?—A. Really, those are two different issues. The first is a practical issue that I think was raised previously in the evidence of Mr Terrett by Mr Matthews, and that is on what criterion you could indicate some people were lobbyists. Public relations firms may be involved in some sort of lobbying activity; there are groups that seek to influence political behaviour, such as the conservation foundation. I believe that the only sensible way to proceed is to base both funding and disclosure determinations on those organisations and or individuals who are seeking election to Parliament.

Q. Not those who support the Australian Conservation Foundation or the Forest Productions Association, for example, who donate to opposite sides of the fence?—A. I believe it would be difficult to establish a point at which the political viewpoint that they were advocating became partisanship in the sense of actually participating in the electoral process. If the Conservation Foundation takes a position about a particular conservation issue and one of the other major parties seems to support that and the other is opposed to it, it may be something that exists as objectively different to canvassing a vote for that party.

Q. The other question that was raised is the question to do with whether in fact candidates ought to have a piece of literature distributed through Australia Post to all electors. Has the party addressed itself to whether it is a practical thing at least at the State elections level to have a booklet to which candidates have access provided they get their submission in in time and in that booklet you would have, for example, a statement of the party policy of each of the parties who want to contest the election plus a small fixed amount of space for the candidate to put a viewpoint? Has that been addressed at all by the Australian Labor Party in regard to at

least in that one respect some sort of equal access just so that they have got an opportunity to get a message into the door of each elector across the State? Has that been considered, its costs and organisational difficulties?—A. I would think that we would have a view which would be that the current method of funding assistance provides for a fair amount of flexibility, and flexibility in terms of the decisions made centrally and locally as to what the political party or the candidate will spend the public funding on, obviously within the limitations of being required to make declarations as to what they have spent the money on. The difficulty I think with artificial forms of communication is that there could be substantial sums of money spent in a way that particular candidates or a whole range of candidates may not want it spent. If I understand what your question is, you are suggesting that in any given electorate there be a publicly funded booklet distributed to all electors which sets out a guide to candidates. We have not formed a particular view on that but I think the objections would be along the lines of those suggested by Mr Murray previously, that is that the current system provides for a lot of flexibility and if one candidate chooses to put a booklet out describing their political position that may be appropriate. Other people may seek to do it different ways.

Q. Just for clarification, I am certainly suggesting; I am asking for comments on its practicability from the Australian Labor Party viewpoint.

Mr WILLIS: I am interested in trying to clear up what I see as an inconsistency of the logic relating to thresholds to attract contribution from the fund based on voting in the upper House. Correct me if I am wrong but I took you to say that you regarded it as sensible, or logical, I think was the word you used, that if someone got elected to the upper House by virtue of gathering preferences from others, even though that candidate did not attract enough votes to qualify for funding because of his first preferences, he should get funding; is that what you said?—A. I said there was a logic in that, yes.

Q. If that is correct, would this not now mean that you were effectively eliminating a threshold for funding in the upper House because you could have a situation where, say, somebody failed to reach or got, say, 2.5 per cent of the vote and someone got 3.2 per cent yet the person on 2.5 per cent, because he garnered a whole lot of other preferences, got a seat and by your logical criteria thereby got public funding but the one who got 3.2 got nothing because he was below the half quota which is currently laid down? What I am trying to get at is if we go in that direction, have we got to say there is no threshold at all for public funding in the upper House?—A. I think in answer to the question I effectively put it back on to the Committee. I indicated that there was a logic in a political party achieving election being eligible for public funding if it could attract by whatever device——if you accept proportional representation and preferential voting as an expression of support, which the Labor Party does, and the fact I think that that is a general situation that any number of members of the lower House of Parliament on both sides failed to achieve 50 per cent of the vote in the last election yet are comfortably still members of Parliament. In my answer I put it back on the Committee by suggesting that that is something you have to pick through and that is a problem that I would acknowledge exists.

Q. But would you agree that if the current system on the face of it appears to be unfair, such as someone who won a seat but did not reach the threshold got no funding, that the scenario I am painting based on your logic is in a different way equally unfair?—A. The other question you have to address is why does the threshold exist. The threshold exists presumably for two reasons, one to secure against wastage of public money by people standing for nonsense reasons or nonsensical candidates, a lot of them, running in an election and further confusing the electoral process which is a different set of objectives in the Electoral Act. I do not think I have a hard and fast rule on that to offer the Committee.

Q. But if the argument for having the threshold is exactly as you put it then and going back to the legislation that was my understanding for the argument, there are many who would argue that at the last election when Mr Richard Jones got elected, he got elected with the preferences of a lot of people that I think you just described as nonsense candidates?—A. May I correct something there. I was suggesting that one of the reasons for the threshold, taking out the particular instance last time, is to prevent nonsense candidates gaining public funds and a threshold has been established which is arbitrary in a sense. There is no necessary logic behind that threshold that says someone who is a nonsense candidate could not in fact still get above the threshold and attract public funding but I still think that there is a case that there should be protection against the possibility of nonsensical candidates gaining public funding.

Q. Many would argue that the current protection that we have in place did not work at the last election and, indeed, there were a proliferation for whatever reason of a lot of what people would regard as nonsense candidates. What I am trying to achieve is that we try to adhere to a principle if we had the machinery that does it. I do not want to put words in your mouth but you seem to be agreeing with me that what we currently have does not fit the principle?—A. Well I think you have two conflicting principles.

Mr SOURIS: There is a provision in the Act that advance payments may be made in the year subsequent to an election and in the second year subsequent to an election of 10 per cent and a further 20 per cent——a total of 30 per cent. Does the Labor Party avail itself of that provision?—A. The Labor Party has availed itself of that provision.

Q. What has the Labor Party used that money for? Is it simply for funding of election material or for general administrative or maintenance purposes or whatever general ongoing recurrent type expenditure?—A. Certainly only for campaign expenditure. But I am not sure that I understand the basis of the question.

Q. The basis of the question is that given there is a provision for advance payments——I do not really know whether it is legal or illegal to use the money for maintenance purposes——my question to you is: should it be available for parties to sustain themselves in between elections or should it be strictly for payment of, say, advertising material or payment of expenses which may have been isolated from the previous election? In other words, is it for the payment of outstanding past election expenses, is it for the maintenance of the party, or otherwise how can it be related to a future election?—A. I think one of the difficulties I have with that question is giving an answer which does not appear to be deceptive, because I am speaking in the general. You introduced the question by asking whether the Australian Labor Party availed itself of that facility under the Act. My answer was yes, it has in the past. My answer to your question in the general is that my understanding is that it is properly used for campaign purposes only and that that would be the case.

Q. Are you saying that if it contributed to your wages, say, that it would be an improper use of that money? There is nothing sinister there. I do not think it is?—A. I would have to check the Act to know whether the Act prescribes that such advance payments must be used for campaign purposes. My recollection is that they must be used for campaign purposes.

CHAIRMAN: That seems to be the case. Section 69(1) is the appropriate section.

Mr SOURIS: Should those advance payments be there for the payment of past election expenses when they relate to the next election? They are a deduction against the next payment. Or more generally, should they be available for general maintenance of the parties?—A. I do not think that the ALP really has a view on the policy question that you have just asked. One thing that the ALP has canvassed on a number of occasions——it has been canvassed in a lot of forums——is that some public funding should be designated or specified for the purpose of political education, for the membership of a given political party or its supporters. But that is a separate

issue. The question of the money being deducted against a past election campaign or a future one gets back to the issue of cost. The level of public funding does not nearly pay the cost of a general election campaign for any of the political parties. So effectively you are left with debt.

Q. So the issue does not arise.

CHAIRMAN: Argument is raised in overseas countries which have public funding that if there is public funding it should be continuous. It is simply a nonsense to fund election campaigns; the political process is an ongoing one. Clearly the current legislation is based only on the funding of election campaigns. We all know that the process continues from election to election. Do you have a view on that philosophy?—A. Without getting to the issue of disclosure, I suppose the thrust of our submission is adopting the carrot and stick view with political parties. The carrot is that they have sustainable funding and the stick is that they do not get public funding for electoral purposes or for any other purposes unless they comply. The issue that we wanted to canvass was a national approach to eliminating broadcast political advertising. That might relate to obligatory disclosures but the ALP would certainly be supportive of a view that a certain amount of public funds could be dedicated to political parties under their control, audited for public purposes against political education campaigns or political education and research. The current situation is that those funds are available only for election purposes. Everybody would be interested in the political culture overseas. In West Germany the main conservative party and the social democratic party maintain effectively the equivalent of a full-time technical college for party supporters, M.P.s, public office representatives, officials—voluntary and professional. Some of that is through public funding. That should be generally looked at by everybody involved in considering these issues.

Mr SOURIS: If you are sufficiently interested in that point, you may care to put together a paper on it. I notice that your submission is dated August 1990. It may be worth

your party putting some thoughts together on this continuation concept.

Mr PHILLIPS: During the early part of your evidence you rightly indicated that it was a previous State Labor Government that introduced public funding into New South Wales. One of the principles of that legislation was that funding was provided for individual candidates as distinct from centralised funding. Your colleagues in Canberra introduced a centralised system of public funding for parties. In your first recommendation you suggest that at the special Premiers Conference the question of electoral funding and disclosure be part of the agenda. What position will the State Labor Party take on the question of centralised funding or individual candidate funding?—A. I was tempted to make a quip about States rights but I will not.

Q. Maybe you can to me later?—A. We would take the view that in so far as the current regime of state provided funds, that recommendation does not necessarily envisage that all funds for State and Federal election purposes would then be sourced by the Federal Government. In other words, that recommendation is about getting a systematic regulation something like the recent companies and securities framework. We would support the current regime as it is in New South Wales for the purposes of New South Wales State elections but we would not necessarily envisage that that obliges us to impose that on our colleagues and your colleagues in the other States or federally.

Miss KIRKBY: Earlier you made a statement about anonymous donations and contributions. Why do you believe contributions should be anonymous? If a party receives donations from public interest groups or lobbyists, by the very fact of making a donation to a political party, is not a public interest group taking part in the political process? Do you not believe that voters have the right to know what interest groups are backing the different political parties?—A. Our submission argues the contrary case. It accepts that there can and should be full disclosure, but that other issues have to be addressed in

tandem. That is the sheer cost of political communication and broadcasting and other controls or limitations or a total ban; and some other matters that Mr Souris and I canvassed about political education and ongoing funding. Therefore I do not need to explain why there should be anonymous donors. The law provides for people to be able to donate to political parties in certain circumstances anonymously. That is their choice. Our view is that that is an innate right within the political system. We certainly accept that the public has a right to know such things. I fail to understand the full implication of the question, because our submission argues contrary to that view.

Q. I may have misunderstood you previously. I am seeking a reply as to whether you believe it is democratic that we have a situation where anonymous donations can be made legally and there need be no legal disclosure?—A. I do not think I need to justify that, because what I have said is the opposite. I have said that the ALP accepts that what should happen is that there should be a general movement to full disclosure, but that we believe the appropriate response is to attract support across the board, interstate and across the political spectrum to a general reform of the political process, including many changes to the sheer cost of campaigning and to the impact of the financial laws that allow a body to have funds in another State. Neither I nor the New South Wales Parliament can control the fact that the Queensland Australian Democrats may make a donation to the New South Wales Australian Democrats, perhaps a contribution for maintenance purposes or anything else. As I understand the Constitution, the State Parliament cannot control that. We suggest—I did not canvass it in great detail because most of our submission is outside the inquiry you are conducting—the opposite. We suggest that in exchange for a general disclosure mechanism there be certain controls introduced in relation to costs. As I said, the obvious one relates to the electronic media. With regard to anonymity I make one point. If there were to be a change—and I made the point about people having authority effectively to

raid a political party's office, if that is not too dramatic terminology——any alterations should not be retrospective. If people do not want to publicly donate after any change, that would be their business. If they have donated on the basis of anonymity, that would be their right.

Q. You were asked, particularly by Reverend Nile and Mr Willis, about the threshold. There was discussion also about a multiplicity of small groups and small registered parties standing, particularly for the upper House at the last State election. Exchange of preferences enables candidates to achieve a quota without gaining first preference votes. Do you agree that an aggregation of first preferences between like-minded groups shows a community of interest? If so, do not you believe that that spreads community of interest over a number of groups and that that is democratic because it reflects the public feeling at the time, just as the public feeling is expressed by those who vote for either of the two major groups?——A. I accept part of what you say. It is part of political methodology, is it not, that in 1961 the Menzies Government was re-elected on the basis of Jim Killen winning his seat on Communist Party preferences. You cannot always claim that preferential voting reflects community of interest. I conceded to Mr Willis that there are two conflicting principles. It would seem that if a party can attract sufficient support to gain election to the upper House, or for that matter to the lower House, and not attract public funding, yet defeated candidates could attract public funding, there is an inconsistency. We canvassed the possible resolution of that inconsistency, which would include the removal of the threshold, or some device along the lines you suggest, to somehow measure the vote in terms of two-party preferred. In an upper House election that becomes very difficult. You have the problem of attempting to establish the concept of community of interest between parties exchanging preferences.

Mr MATTHEWS: Would fixed term elections increase the amount of political advertising required by a party, or would that have the reverse effect? With a fixed term election

parties rely much more on their record during the term and cannot manipulate circumstances to alter the election date, which often requires a huge expenditure of funds, perhaps to cover past mistakes or to avoid disclosure of certain matters that would influence the election?—A. The result would be to some extent what happens in the United States: that you have an election season. I do not think that the United States could be cited as an example of restraint with regard to expenditure by political parties on election campaigns. From the practical examples I am aware of, that is not the case.

Q. By way of comment, as a regular visitor to the United States, there are differences in the two societies, and I would not necessarily suggest that that is a valid comparison.

Mr BULL: I was interested in your recommendation 1. You canvassed it briefly in answer to another question. Are you going so far as to suggest that there should be a national public funding authority?—A. Obviously, the framework is left fairly open. The recommendation argues that it is something that should be properly considered at as high a level as the Premiers Conference. I am not suggesting that in itself would be the only subject-matter at a Premiers Conference. That recommendation could not be given effect without some Federal regulatory authority.

Q. You suggested that it may prevent interstate fund transfers. Can us see any benefits from having one national authority rather than all the States doing their own thing?—A. In answer to another question I made it clear that we adopt the Federal view, in the sense that we do not necessarily envisage the abolition of State public funding, and the sourcing of funds would not be coming only from the States for electoral purposes.

Q. I turn to the matter of subsidised time on broadcast media. The last witness said that there should be subsidised or free time and also free letterboxing, through the postal system, for candidates. You suggested that subsidised time on broadcast media might be considered. I assume that subsidy would come from funds available for distribution to political

parties under the election funding authority. Is it not up to political parties to decide how they want to spend their money? In other words, if they are to have subsidised time which will take away funds which would otherwise have been available to them, the present system where they can claim expenses under the authority gives them the opportunity to do whatever they want to do?—A. I think there is public concern about the dimensions of the costs of a political campaign. The current regime of broadcasting media, even though advertising costs are falling, results in massive expenditure being required. One issue that I have not canvassed in detail is that there is a significant shortfall between what is available through public funding and what is available in a basic minimum campaign run by any of the major political parties. Effectively, the answer to your question is that we accept the general view that as much public funding should be made to local candidates and the party centrally as is feasible. Overall public interest in regard to broadcast media has reached a level where some drastic action has to be taken. Our view—which has been articulated at the national level—has been reinforced at the State level. A number of other State Labor Party branches have taken the view that there should properly be a ban on political advertising to bring those costs under some sort of control.

Q. That is contrary to recommendation 1?—A. The effect of free or subsidised time, which is the original proposition in the Federal report, has been effectively replaced by more recent calls for a ban across the board. As I pointed out earlier, this submission was drafted some months ago and subsequent political events have overtaken it.

Q. So the Labor Party in New South Wales now supports a ban on electronic media?—A. Yes.

Q. If a ban were not in place and subsidised or free time were available on broadcast media, it raises questions as to who should get it, what amount of time should be allocated and whether there should be thresholds. As you have updated your recommendation, I will not pursue the matter?—A. To be very clear, the administrative committee of the New South Wales

branch of the Australian Labor Party, at its most recent meeting, passed a resolution in those terms. That resolution, which has been forwarded to the national executive of the Australian Labor Party, supports the national executive's call.

Mr PHILLIPS: For banning?—A. For banning.

Q. Is there not a tendency for political parties, particularly the Labor Party, to overplay the importance of media advertising and severely overexpend its income, leaving itself in debt? If political parties kept to their incomes and used only media advertising that they could afford there would not be this problem?—A. That is very close to an unplayable ball. The only answer I can give is that both parties have, at times, been overindulgent in electronic media advertising.

Q. Why ban it? If they just stuck to their budgets they would not have a problem.

CHAIRMAN: I neglected to ask you a question which I asked the previous witness. The Australian Democrats have raised some concerns about the composition of the electoral funding authority and proposed a change to the Premier and Leader of the Opposition making an appointment, and the Auditor-General and Independent Commission Against Corruption making an appointment. Does the Labor Party have a view on the present composition and adequacy of the Electoral Funding Act?—A. We support the present composition of the EFA. I echo what I heard of the Committee's deliberations, which is that I cannot see that the Independent Commission Against Corruption or the Auditor-General could bring any expertise to the EFA.

Miss KIRKBY: In view of your last remark, surely the expertise brought by the Auditor-General would be an analysis of the accounts presented by parties? Is political expertise not necessary if you are to fund something? What is necessary is an understanding of the way the claims have been made and whether those claims are valid. In a political sense, everybody would believe that those claims were valid?—A. Yes, but there is a set format for the claims. I think the Auditor-General could not advance that any further. His representative

would literally have to be in a position to audit the claims.

Q. Do you not believe that is what the electoral funding authority should be doing?—A. I suggested another approach, pending a general acceptance of the view about disclosure. The mechanism could be a general audit rather than spot audits, as has been suggested. Someone asked me earlier about effective spot audits. Clearly, a general audit would have the same effect.

Mr MURRAY: Public auditors are required to audit submissions that go to the public funding authority. All public auditors are registered so those submissions are audited.

Mr EGAN: No great accounting skills are involved in checking a public funding return that would require the expertise or resources of the Auditor-General's office. In answer to a question asked by Mr Bull you said that, if there were national legislation to overcome the problem that exists at the moment where interstate donations avoid the disclosure provisions of State legislation, you would envisage a need for some national regulatory authority. That suggestion filled me with horror. Why would that be the case? At present there are Federal laws which are enforced by State authorities. Members of the police force enforce many Commonwealth laws. Why could there not be national legislation which the State electoral funding authority could enforce?—A. That would be a feasible option. My response to Mr Bull's question as to the procedures that would be necessary was a forced response. If it were possible simply to introduce Federal laws or guidelines that could be imposed by various States, that would be satisfactory.

(The witness withdrew)

ROBERT BROOKER MAHER, State Director of the Liberal Party, New South Wales Division, of 47-51 Riley Street, Woolloomooloo, sworn and examined:

FERGUS ANTHONY HYNES, Party Agent of the Liberal Party, New South Wales Division, of 15 Bayswater Road, Lindfield, sworn and examined:

CHAIRMAN: Mr Maher, did you receive a summons issued under my hand to attend before this Committee?—A. (Mr Maher) Yes, I have.

Q. Mr Hynes, did you receive a summons issued under my hand to attend before this Committee?—A. (Mr Hynes) Yes, Mr Chairman.

Q. As the Liberal Party has not made any submission to the Committee on these matters, we will ask a series of standard questions that are being raised on the whole aspect of public funding. One or either or both of you should feel free to comment as you see fit on the matters raised. The first one that we have been considering is the threshold of public support for funding. Do you have any views on public funding?—A. (Mr Maher) May I make one observation before I answer that. I have only recently taken up the appointment of State Director of the Liberal Party, New South Wales Division, in the last month and I do not pretend to be familiar with the Public Funding Act. So most of the questions that relate to the technical side of the Act will be handled by Mr Hynes. The question you asked depends on the criteria. If the thresholds are changed then criteria should be changed. I imagine a whole series of questions need to be asked about the issues that the Committee wishes to address. I do not know whether My Hynes wants to add anything to that, but I suppose if the threshold works as it currently is, there would be no reason to change it; if it does not, there is reason to look at it, but the rest of the criteria that go with the threshold should also be looked at.

(Mr Hynes) I support that view but I have not addressed the question as I have not had a problem with it. I can understand that some people have, but the party has not had a

problem so I have no comment on it.

Q. Mr Hynes, what do you think of the pros and cons of public funding from the point of view of the Liberal Party? Have there been any unintended consequences of receiving public funding in this way? Has it centralised or fragmented the party structure in any way, or inflated party costs or election costs?—A. I think the system has worked quite well. In my view the Electoral Funding Authority has operated very efficiently with the minimum amount of bureaucracy. I do not think expenditure has grown enormously because of election funding. It is only a proportion of our expenditure in State elections which is recovered from election funding. I do not think it has influenced us into spending a great deal of money. Beyond that I really do not have much to add. I think it has been quite a reasonable system that has worked quite well.

Q. Taking up the point of the Electoral Funding Authority, it has been mentioned elsewhere to the Committee that the structure of the authority ought to be changed, and in particular that the two appointments made respectively by the Premier and the Leader of the Opposition ought to be changed to appointments made by the New South Wales Auditor-General and the Chief Commissioner of the Independent Commission Against Corruption. Do you have views on that proposal or the adequacy or otherwise of the present authority?—A. I have no particular views but I have a view elsewhere on the subject of the Auditor-General which lessens the need to have that sort of person on the authority. My view is that enough precautions are taken in other areas, so I do not think it is necessary to have the Auditor-General or somebody like that on the electoral authority. I think that to have people on the authority with some knowledge of electoral procedures has great advantages.

Q. What about the criteria for allocating subsidies generally, and more particularly in this case the question of what is or what is not eligible expenditure? Has a problem been perceived with the rules as they presently stand in that area?—A. No, I do not have any problems but I think that a simpler system, like that in the Commonwealth, would allow

people who are entitled to obtain some money for reimbursement to get it with a minimum of fuss. A suggestion has already been made today, and it is my view also, that if someone lodges a claim that is already supported by a registered public auditor, someone in the authority should not be expected to turn around and audit that. It could be simplified so that if you reach the determined level and you are eligible, provided you lodge a certificate from an auditor that you have incurred expenditure up to that level, you should be entitled to receive it, and the authority need not go beyond that. You are then relying on the candidate's agent or a public auditor. That should be sufficient. That could cut down on the work for candidates, agents and the authority.

Q. Do you think that public funding has in any way reduced participation in the political process for the Liberal Party?—A. No, because through direct mail and other methods I think we have widened participation in the preliminary procedures. I do not think it has affected that in any way.

Q. Are the ceilings on expenses adequate or inadequate?—A. When you say the ceiling on expenses——

Q. The maximum amount claimable?—A. I think they are quite reasonable. I think they are adjusted and are quite reasonable.

Q. I think you have already answered this question but I put it to you specifically, though it has been raised separately by others. It is suggested that the Electoral Funding Authority should be empowered to inspect a party's books, records and bank accounts and to have power to enter premises. The question has been raised also whether, if they are to have that power, that power be imposed unannounced, with on-the-spot audits, or to do so after giving notice beforehand that they are coming. Do you have any views on that suggestion?—A. I would not like to see the day that we get involved in that level of follow-up. Parties and candidates have much to lose if they make incorrect disclosures. I really think it would be over-reacting if we go to that stage where it is necessary to carry out that sort of investigation. Few

incidents have occurred in the years that it has been operating where the system has been abused. Very few prosecutions, that I am aware of, have occurred either Federally or in this State, and in any event the parties have been well disciplined.

Mr EGAN: Just to take up the last point that you made when you said there had been few prosecutions under the Act, could that be a result of either inadequate investigative powers by the authority or an unwillingness by the authority to investigate allegations of abuse of the system?—A. No. I think that if people abuse the system they can be embarrassed by it, and that is why most people comply with it. I think there are very few people who do otherwise.

Q. But do we really know if people comply with it?—A. The authority does pursue people. As I say, you assume you have to have collusion if you are talking about incorrect returns between a publicly registered auditor and the candidate. In the community at large, if you start going beyond those sorts of things, you are starting to distrust quite a number of people.

Q. But an auditor is only going to audit the books and the information that is conveyed to him by the candidate or by the party. The auditor cannot vouch that an expenditure has been incurred by a candidate or there has been some donation in kind if it does not show up in the books?—A. If somebody sets out to conceal something and does not register the expenditure in his own books, it would not be apparent to anyone else either. If someone remote spends money and conceals it, it would not be apparent to an authority any more than it would to the auditor.

Q. This morning the witness for the Australian Democrats suggested that at the last State election an Independent candidate, Pappadakis, I think—I am not sure which electorate she stood for—had a brochure printed for her by the Liberal Party which was not disclosed in her return. What sort of investigative powers do you think the authority should have to investigate that sort of complaint?—A. I will not comment on that case because I remember the incident, and there is a lot more to it, I imagine, than has just been mentioned. For an

individual person I do not really think it is necessary. The question was raised, the matter was resolved, and a proper return was lodged. I do not really believe it need go beyond that. I think it takes care of itself through public disclosure.

Q. I was not aware that that had happened, but from your answer that seems to be an instance where there was not proper disclosure. From what you say, proper disclosure came about because of public exposure, by whatever means, of what actually took place. How can the public be certain that that sort of incident does not occur quite regularly and that it is simply not uncovered because the authority does not have sufficient investigative powers or the will to investigate? I suppose that gets down to the question of whether it is appropriate to have an Electoral Funding Authority that is constituted by one independent commissioner, the other two members being nominees of political parties. If one were to be sinister, one could almost say that the political parties have a vested interest in not delving into the affairs of the other too deeply?—A. But I think they do, and the media does. That is why I think public disclosure operates very well, because if one candidate tries to conceal something, invariably someone else spots it. So there is a form of doublecheck going on all along. It is a form of self-regulation. People go through each other's returns, and that is how these questions come to light. That is far more effective than sending public servants and auditors into places. Where do they go? Do they go to people's homes, people's private businesses, or where the party meets to try to assemble the evidence? I think you would use tremendous resources for very little result.

Reverend NILE: During your earlier remarks you made a statement that the Liberal Party has no problem with the threshold of 4 per cent, which was a very truthful and factual comment. Neither of the major parties has a problem with the threshold because they know they will always get votes well in excess of the threshold. But if the whole public funding system is designed to open up the electoral system and

encourage more involvement of Independents and minor parties, it does become a real question for them. You are probably aware that some minor parties and candidates have stood; they did not reach the threshold, they had large debts, and have had to back out of the electoral process altogether. Would the Liberal Party oppose any reduction in the threshold or the abolition of the threshold of 4 per cent?—A. (Mr Maher) I cannot answer from a party viewpoint. I imagine that from your own preamble, they probably would, but I would not like to say that that would be a certain factor. You would have to look at the question of the 4 per cent in the context of a whole range of other factors around it. One of the bases for it and the previous person in this spot was talking about it, is candidates who might be as frivolous and trying to reduce the number of such candidates in the election process and eligibility for public funding. One way to do this is to set a threshold.

If you want to change that threshold, maybe you need to look at other factors that surround that, such as nomination fees, if you still want, for want of a better word, to have the frivolous candidate out of it. If you think there is an inconsistency that someone is elected to the upper House but can get no public funding, it is difficult to take it on its own and say, "We will set a figure", and hope that certain consequential actions happen from that. Most figures tend to be arbitrary, whether it be age pensions, or whatever. There is always a line of difficulty and problems around that particular line. I think you need to look at all the circumstances that surround the threshold, namely, the discouragement of the candidates who try to distort the system, as opposed to serious candidates from minor parties or minor independent issues.

Q. In earlier evidence we have heard from other witnesses about the dilemma you have referred to briefly of the Australian Democrats not getting funding when they won the seat but received less than the threshold vote. Looking at the proposition of using the preferential system to bring together

the votes so that a person can win a seat and also get the funding, even though he may have got only 2 per cent of the vote, the term was used earlier of "like minded groups coming together", which is, supposedly, democratic. The Legislative Council has a system of boxes, which means that the voter has no involvement in where the preferences go. If we gave funding to candidates who did not reach the threshold, should we, therefore, abolish that box system so that the voter has to express his preference himself in either the full preferential system or 1 to 15 or 1 to 20 to register a formal vote. Do you favour retaining the boxes or abolishing them?—A. That is probably too difficult a question for a new boy like me. I suppose under the preferential system when you get that sort of community interest coming together, I do not happen to accept that would be true because of the way the boxing system operates and the way preferences flow anyway. In many cases the voters would be unaware of where actually the preferences will flow to.

Q. That is my point?—A. I would only go back to my original point and say if you are going to change the threshold, you have to look at all the other issues that devolve around that and in fact the outcome you want. You need to look at the outcome and try to work out all the various inputs into that particular equation so that you can attain that particular outcome without me specifying what that outcome is.

Mr HATTON: Do you favour a register of lobbyists being established?—A. I cannot give a view of what the Liberal Party's attitude is. I suppose my difficulty would be to define what is a lobbyist. Nearly every group that now exists is almost in some way or other trying to exert an influence on an elected representative at a whole range of levels. If you are about to have a redevelopment take place behind where you live and someone is going to put up medium-density housing, and you have lived in a particular place for a long period of time, the citizens who live there immediately as a general rule get together and become a group to form a lobby group to influence

the local government area. You can take that example and translate it to a whole range of issues throughout the community. It would be a question of definition criteria. In fact some of them would be very hard to define because groups would arise and would disappear once an issue had been resolved. So I suppose my view would be that some things are very difficult to control. If you try to pinpoint all the rules and regulations and dot all the i's and t's you get yourself into more difficulties than when you started. I think there is a problem with the idea of having a register of lobbyists. It is a question of definition.

Q. Do you favour the ban on electronic media use in election campaigns as recently canvassed by the Australian Labor Party?—A. No, I would not support a ban on electronic media advertising. I think I would take the view that politicians or political parties need to communicate with the electorate. The major means of that communication——major in costs——happens to be television. The choice of making that communication ultimately should be up to the political party in the form of how you want to do it.

Q. The second question arising from that is should there then be some sort of an upper limit or should it be open slather? If it is open slather, is there any loss from the public interest viewpoint in having open slather, in other words an uncontained election expenditure where each year it seems to become more and more expensive and it prices smaller people out of the market?—A. No, I do not suppose I support——and I am only speaking from my own view——the establishment of an upper limit. I think there is an obligation on political parties, the same as there is on anyone who is following in any business organisation not to become incontinent in their spending, quite frankly. If you know you are going to raise a certain amount of revenue which is your estimate and the fact that you make conscious decisions to overspend and make a conscious decision to go into debt, I think there should be some discipline on the particular parties themselves of how they run their operations to ensure that does

not occur. I am sure that is probably easier said than done but I do not have any doubt about the basic thrust of what I am saying. If you know you are only going to have $3 million and you make a conscious decision to spend $7 million or $8 million in a relatively short period of time, there should be some accountability for your own actions in making that type of decision.

Q. In a society where there is an increasing concentration of wealth, should the Parliament be worried about the fact that if there is no ban on the use of electronic media and there is no upper limit of electoral budgeting, then in fact the wealthy have the potential to control more and more what is happening in a so-called democratic society? Is there a role for Parliament in that which is really fundamental to the existence of this Committee in my view?—A. Yes. I mean I think there is a role for the Parliament and there is a role for this Committee to adequately canvass those types of questions. I suppose I still believe at the end of the day from a political party point of view it does not matter how much money you pour into a particular campaign, if the electorate has decided that it no longer desires what you have to offer, it will probably vote that particular party out of power. There is enough evidence to show that that happens. So I think there are constraints anyway. I think there are dangers about people being tired of the amount of political advertising that is directed at them and I think that is a legitimate role for the Parliament through whatever mechanism to examine those issues. But I still express the view that I have some concern about a ban on political or electronic political advertising and how you decide to establish what that limit is.

Q. The last question is why should political parties be funded as opposed to merely funding candidates? It is the candidates who present themselves albeit that they may present themselves on the platform of a political party but it is the candidates who present themselves. Why not just fund the candidates?—A. My understanding is that in New South Wales candidates do in fact attract a certain amount of funding

anyway, as well as parties. I suppose the reason for doing it is that in most cases, and obviously there are exceptions, it is a political party that is providing the candidate. It is the political party that is providing the source of ideas, generation, capacity to govern and a whole range of issues that I would believe they are entitled to some of that funding that is provided out of the public funding.

Mr PHILLIPS: Following on this question of electronic banning, let us say the Liberal Party had a budget of $3 million for a campaign and $1 million of that was allocated towards electronic advertising, the ban came in to say that you could not spend $1 million on electronic advertising, would the Liberal Party reduce its budget to $2 million or would it find somewhere else to spend that $1 million?—A. Well I suppose if you had the resources you might look at how you would spend that money. You would probably have to look at other means of doing things. You might use more billboard posters or you might do cinema advertising which has high set-up costs for the number of people you reach out of it. So there would be other means of doing so. But you have prompted me on the thought in the sense that you might put more money into direct mail, for example, and a whole range of other issues. There might come the stage where you decide that so much money is being spent on direct mail, and there are some good examples of high spending campaigns on direct mail, that we should ban direct mail as a means of reaching electors as well. I think that is the problem I have with bans: what are the alternative methods of reaching electors. You may well not spend the extra million but I would imagine you would be looking at other means at getting your message across better. I come back to the point I made about advertising. I still think there is an obligation on the political party to think very carefully about how it spends its money. It should not just assume that it has the next three years to get itself out of debt before it faces the next election——or two years. There are limits. In business or elsewhere there are laws about the marginal productivity of what you do. There must come a time when most people have seen

enough ads. We need to get to the optimum, which is probably below what is currently being done.

Mr EGAN: You say the optimum is below what is being done?—A. Probably as far as the number of ads that are used and how constant it is. That is only a personal view. When you see a certain ad all the time you think that you never want to see it again. New ads should be developed and other material should be constantly put out. Perhaps a little more time should be spent in research on what you have done.

Q. If you compare political advertising with the advertising of commercial products you would form a conclusion that there is mileage in much more electronic advertising by political parties, that we have not reached the point where marginal returns are not worth the cost?—A. I think what you say is true in the sense that that is what is perceived to be the case. I am not sure that in all cases it is so.

Mr MILLS: There are many differences between the State and Australian approaches to election funding——thresholds, ease of payment and speeds——including the concept Mr Hatton raised of the State payment to the candidates in the lower House whereas federally it is payment to the party except in the case of Independent candidates. What is the Liberal Party view of a co-ordinated review at national and State level of election funding processes and mechanisms?—A. (Mr Hynes) There is certainly a case for co-operation, but it is a long way away. At the moment, I know of only one State and the Commonwealth. They have different requirements, which makes it very difficult for party agents like myself. It is exceedingly difficult and the only way it will be overcome is with uniform legislation throughout Australia. But that is a long way away. As in company law and everything else, I am sure there are advantages to having a uniform system. There are some aspects of the Commonwealth law I would prefer to see as far as saving administration dollars.

Q. Which ones are they?—A. For instance, as I said earlier, I believe having a claim signed by a registered officer should be sufficient so that we do not have to send a

great pile of information into the office. That is the way the Commonwealth operates. You have a choice: you can claim on the vouchers or you can lodge a certificate. I also note that the Commonwealth concentrates on only certain categories of expenditure——about six major ones, which I think are the ones the public want to know about, the media and the print. They are not all that interested in telephones, taxi fares and all the rest. They may be. I should think there are advantages in perhaps limiting the New South Wales ones to the major categories of expenditure. Provided somebody discloses them correctly as sufficient expenditure to meet the cost reimbursement, they should be reimbursed for it. I believe in cutting down the paperwork. I would hate to see the system get more and more involved and use up more dollars in administering it.

Q. Earlier we were discussing penalties briefly and I think Mr Maher said that the penalty for not telling the truth or failing to disclose various things was the main penalty. But that is only a temporary penalty. Do you think there should be any changes to the penalties under the Electoral Funding Act to make certain that people do the right thing and do not just walk away from the system and hope that nobody will bother to chase them up?—A. I can only go by the experience of the last seven years. There have been very few incidents of party agents being prosecuted. Even in those cases, it has been found that the agents of the candidates have acted honourably. Perhaps information was withheld from them that they could not possibly know about. The experience is that agents and candidates try to disclose to the best of their ability. I think it would be unfortunate to penalise party agents in particular. It is a very difficult task. I really think that going after party agents is not the way. I think embarrassment of candidates is the most effective way. It is the one I have always used most effectively in educating candidates, that they will be more embarrassed than I will be.

Q. But it is embarrassment a couple of months after an election, all forgotten?—A. Yes. There may be some people who

never intend to run again or who intend to leave the district in which they live. But for most people it works. I think we are talking about the vast majority of the candidates.

Q. If there were to be an election in a few months time and there is one opportunity to make amendments to the electoral funding legislation in New South Wales, what would the Liberal Party like to see done before the next election, if anything?—A. I do not think there is anything that needs to be done urgently. I do not think there is anything that requires that. I think the system has been working quite well.

Miss KIRKBY: Mr Hynes, you said earlier that it would be much easier for you as a party agent if, when submitting claims, providing they had been overseen and authenticated by a registered public auditor, the word of the registered public auditor were taken as sufficient confirmation. However, since the last State election and even since the last Federal election there have been a number of corporate collapses. Do you believe now that the public would accept that the imprimatur of a registered public auditor could still be regarded as irreproachable? Presumably, some of the corporate collapses must have involved collusion between the auditor and the company. If that takes place, why should there not been collusion between the auditor and the candidate?—A. I can only say that I believe that in the vast majority of cases the auditors will do their job correctly. They have a great deal more to lose, possibly, than the candidate. You will always get the odd person but the majority have a great deal to lose if they incorrectly complete the returns.

Q. You would have thought though in the recent corporate collapses that the auditors involved would have had a great deal to lose under the Companies Code, and that the company directors of the failed companies also would have had a great deal to lose, but it does not seem to have prevented them embarking on some very dangerous practices?—A. Having come from that field many years ago, the law and everything else has something to do with it. You may find that the officers perform their duty in accordance with the law, but that in some

areas the law obviously allows directors to make decisions that are not necessarily in the best interests of their shareholders. That is a major problem today. It is not the fault of the auditors but of many other people. I shall defend auditors against accepting the blame for all the problems.

Q. The Committee has discussed with witnesses a register of lobbyists. The feeling from the questions is that it would be difficult to have such a register. However, in the United States a register of political lobbyists is kept. Would it not be in the public interest if we followed the United States experience?—A. I shall pass that to Mr Maher.

(Mr Maher) The United States has that system but I am not so sure about it. If you could have a register with the necessary criteria established, it would be in the public interest. My concern was how you define what or who is a lobbyist. Is it only a professional group that is paid, a public relations firm, and what do you do about communities that band together for a short period to lobby someone? Should they have to register? Once again, if you can establish the criteria, knowing what your output is meant to be, I suppose it is feasible. The United States register of lobbyists concentrates on people who earn a certain amount of income. As I understand, it is based also on contacts with Congress, as opposed to being a register of State lobbying. There are a number of other factors. If you have a register and you accept certain criteria, you know what results or difficulties you will have. That is the problem in registering lobbyists. You have to define who or what groups you will register.

Q. What are your views on whether we should continue with legislation that permits anonymous donations? Do not you believe that voters are entitled to know what wealthy interests are supporting?

CHAIRMAN: Miss Kirkby, that is getting into the area of disclosure, which we are not covering today. I have previously stopped such questions.

Miss KIRKBY: Thank you, Mr Chairman.

Mr BULL: I have no questions, but I ask through you, Mr

Chairman, if the minor amendments mentioned earlier by the witnesses could be put in writing and submitted to the Committee.

CHAIRMAN: Yes.

(The witnesses withdrew)

(Luncheon adjournment)

JOHN CHARLES WASSON, Secretary, Electoral Funding Authority, 1 Francis Street, Darlinghurst, sworn and examined:

CHAIRMAN: Did you receive a summons issued under my hand to attend before this Committee?—A. Yes, I did.

Q. Earlier we asked a series of questions which related to the political parties who made submissions to us or appeared before us today. Obviously, the questions we will be asking you will be different in many respects. I wish to ensure that everyone present realises that there may well be some questions which we put to you which you feel it inappropriate to answer as a person charged with carrying out government policy. If you happen to think previous or present Government policy is completely wrong, please feel free to indicate whether you believe it is inappropriate to answer a question. One of the issues that has been raised, which we have been discussing today, is the question of the thresholds at which people become eligible to receive public funding. There have been arguments about whether there should be thresholds and, if so, what they should be and whether they should be across the board. It has also been argued that they should depend on the way in which the Parliamentary Electorates and Elections Act deals with the return of deposits. Is it your view that an across the board threshold would make greater sense than the present system where thresholds relate to deposit return rules?—A. The deposit return rules were amended by legislation which went through in the last session of Parliament. Basically, candidates have their deposits returned if they get 4 per cent of first preference votes, in the case of the Council, or they belong to a group which received 4 per cent of the vote. It may seem anomalous if we had a system where people who became eligible for funding had to satisfy a higher criterion than a refund of their deposits. The Commonwealth system is 4 per cent across the board, which seems to work all right. I imagine it is just a matter for the Government to decide whether it wishes to adopt the 4 per cent threshold or whether it seeks to leave the system as it presently stands. If everybody was entitled to funding, no matter how few votes they

received, that could be seen by some as not being a discouragement to spurious nominations. I think the previous Government legislated to increase deposits and increase to 30 the number of persons required to sign the nomination forms. At that time the idea was to discourage frivolous nominations. I should not comment on whether the present Government agrees with that line of thinking.

Q. Essentially, the present Electoral Funding Act sets out that you qualify for public funding if you meet the requirement for a return of deposit?—A. That is right.

Q. I know that resources are not extensive at the State Electoral Office, but have you formed a view as to the likely implications of the recent change you referred to; that is, the number of people who may now qualify for public funding, given that the 4 per cent rule, in most instances, is considerably lower than the rule that used to apply in the Legislative Assembly?—A. Yes. Obviously, it would increase the number of people who would become eligible for funding. Correspondingly, it would reduce the amount of funding available to candidates under the 20 per cent rule. I have some random figures which relate to a number of electorates.

ELECTORATE/ CANDIDATE	No. OF FIRST PREFERENCE VOTES	EXISTING ENTITLEMENT $	PROPOSED ENTITLEMENT $	VARIATION $
BALLINA				
Mooney	8240	4957	4443	- 514
Brown	1262	Nil	680	+ 680
Page	18022	7900	7900	Nil
Edwards	1780	Nil	959	+ 959
GORDON				
Moore	22986	7900	7900	Nil
Jeans	3719	Nil	1922	+ 1922
Richardson	2784	Nil	1491	+ 1491
GOSFORD				
Hartcher	16589	7900	7900	Nil
Chestnut	1845	Nil	882	+ 882
Anderson	2690	Nil	1286	+ 1286
Samson	11922	6607	5700	- 907
LISMORE				
Rixon	19493	7900	7900	Nil
Gallen	7664	4459	4040	- 419
Gibbs	2093	Nil	1103	+ 1103
Axtens	719	Nil	Nil	Nil
MACQUARIE FIELDS				
Stephens	1748	Nil	945	+ 945
Knowles	13248	7900	7167	- 733
Calabro	10248	6891	5544	- 1347
Perkins	1415	Nil	765	+ 765
Short	2548	Nil	1378	+ 1378
WENTWORTHVILLE				
Allan	14603	7857	7539	- 318
Hooper	10287	5535	5311	- 224
Utterson	604	Nil	Nil	Nil
Poularas	634	Nil	Nil	Nil
Ezzy	4476	2408	2310	- 98

For instance, at Ballina, where there were four candidates, under existing legislation only two were entitled to funding. If the 4 per cent rule were to apply, all four candidates would be eligible for funding. In a number of cases it would not affect the amount of money a successful candidate would receive as she or he is entitled to receive only 50 per cent of available funds. It effects substantially the candidate who comes second or third who is entitled to funding, because he or she does not have a cushion. The successful candidate might well achieve 60 per cent of the votes. When more people come in the successful candidate's vote might be reduced to 55 per cent, but it still does not bring it below 50 per cent so that candidate's entitlement would be the same. A person who got 40 per cent of the vote might well have his entitlement reduced to 37 per cent, but he does not have that cushion on which to fall back.

For instance, in Ballina the entitlement of the Labor candidate Mr Mooney——he was entitled under the existing provisions of the legislation to $4,957——would drop to $4,443, a drop of about $500, whereas the successful candidate Mr Page's entitlement would not be altered at all because he got half, and even with the additional votes or additional candidates participating it was not reduced at all. The two candidates who got no money at all would have got $680 and $950 respectively. In the seat of Gordon, Mr Moore was the only candidate who was entitled to receive funding. He had quite a landslide result and the other candidate did not achieve 20 per cent of his first preferences. Under these new provisions Mr Moore's entitlement of $7,900, which is half, would remain the same, but again the candidates not eligible for funding would get $1,922 and $1,491 respectively. There is a marked difference particularly in the number of people who are eligible to participate and the amount of money that some people will get. I will leave this with the Committee. It has random seats such as Ballina, Gordon, Lismore and Macquarie Fields, but that would be the effect.

More of the funds would be extended because, where

not all the funds assigned to an electoral district are spent, a certain amount comes back undistributed. With more people participating, less would be left undistributed. At the last election $1.7 million was allocated to the constituency fund. Because of the way the formula works nearly $200,000 was unexpended because of the fact that one candidate achieving more than 50 per cent of the vote gets only 50 per cent, and the remainder can get only what they are entitled to. So that gap accounts for the unexpended moneys.

Q. As a matter of interest, what happens to the unexpended moneys?—A. It just goes back to revenue.

Q. Back to consolidated revenue, or does it stay with the electoral fund?—A. No, back to revenue.

Q. As to the operation of the electoral Act with respect to the Legislative Council, the wording of the Act, on my reading of it, seems to create a slightly curious situation where obviously the major parties will be getting sufficient funds for the upper House, and similarly a completely Independent candidate who actually manages to get elected can qualify, and that is specified in the Act, even if he or she does not achieve a half quota, which is specified in the Act. But in 1988 the Democrats did get someone elected but did not achieve a first preference vote sufficient to attract public funding. Are you aware of any reason at the time the Act was drawn up why that clause about winning being sufficient to include an Independent candidate did not include any group or party teams of candidates, or was it just a situation that had not been thought of at the time?—A. At the time in 1988 that that situation arose with the Democrats the authority sought the advice of the Crown Solicitor. His advice was that the party was not entitled to funding. In formulating that advice he examined *Hansard* and the report of a select committee and was unable to ascertain or establish any matter which led him to believe that it was an oversight on the part of the Government, which then legislated in the fashion that exists at the present time.

Q. Did his advice indicate that there was no

evidence that it was an oversight, or more positively that it was done that way deliberately?—A. No, he said there was nothing to indicate that it was intended to be otherwise than what it was. He was unable to point to anything where the committee had directly turned their mind to that question. It was an assumption that it was the intent of the Government.

Q. I take it therefore that it would be a reasonably simple amendment that would rectify that situation if Parliament was of a mind to do so?—A. Yes. It is an unusual situation. In 1984 the Democrat position was reversed. They had no one elected but they got half a quota and therefore were entitled to funding; even though no one was elected, they crossed the threshold; when they had someone elected they did not cross the threshold and the Act did not permit payment.

Q. This morning a question was raised by witnesses from the Liberal Party about the requirements of the respective State and Federal Acts in respect of the receipting that had to be produced, and the different system of vouchering for expenses. The range of issues pursued under the two Acts differed. Evidence was given that, in the opinion of the witness, the Federal system was better in that it only concentrated on those major items of expenditure and that it was sufficient to produce accounts duly signed by certified public registered accountants, rather than get the accounts off them, produce all vouchers and receipts and so on, on a presumption, and the electoral funding authority then doing the same again and re-auditing everything. In your experience would there be any problem in changing the system here to one more akin to the Federal system and reducing the amount of paperwork? Have you come across instances in your work where the quality of public accounting was not sufficiently high for you to be happy about that system being used?—A. I think the system in New South Wales is fairly simple. The number of claims we have for payment we do not have that much problem with. Any problems that we do have are usually easily rectified. There was an amendment to the regulations before 1984 whereby candidates who were entitled to funding needed

only to vouch for their advertising expenses. That means radio, television, newspapers, and various how-to-vote material that may be circulated. If they are able to produce samples and receipts or invoices for all those items and that amounted to what their entitlement was, or more than what their entitlement was, they need not vouch for anything else.

Once they established that they had spent that amount of money on advertising by documentary evidence, by way of receipts, and whatever, and other administrative costs, the authority just accepts on face value what they include in their declaration. I do not think it is all that difficult to comply with our requirements under the legislation at the present time, because we find on most occasions that the cost of advertising being what it is today, once they have vouched for all their advertising, that carries them over what their entitlement is, in any event.

I would see no problem if the Government were to adopt the Commonwealth system so long as there is some evidence that that money has been spent so that there can be no suggestion that people are obtaining a profit out of running an election campaign by claiming expenses that they did not incur. Whilst we are on this matter, it is probably not something which would have been brought to the attention of the Committee because it mainly concerns candidates who are either Independent candidates or candidates from a party that does not enjoy a great deal of support, the legislation at the present time requires that all candidates submit declarations which are supported by documentary evidence and that they be audited. We find time and time again at elections that candidates who receive very little support resent having to go and have something audited if they are not entitled to claim any money from the fund. There is no power in the Act at the present time to give the authority a discretion in cases where payment from the fund is not involved for it to waive the strict requirements of auditing. That is something which candidates who do not command a deal of support resent.

We even have the situation where people say they

did not spend any money on their campaign, nor did they receive any contributions. They ask, "How can I have two blank pieces of paper audited?" That is what they say the situation is. If the Committee were to be considering some amendments, perhaps it could have a look at the question of where payment from the fund is not involved. The authority should have some power to dispense with the strict requirement of auditing, or with any other provision it feels might be adopted in accordance with the Commonwealth legislation.

Q. That is in relation to auditing expenses incurred?—A. And contributions, because the audit certificate is supposed to be an audit certificate of both the declaration of electoral expenditure incurred and political contributions received. It is something that the Committee might like to consider, perhaps.

Q. We will come back to the contributions later on when we get on to the disclosure matters. A number of proposals in the submissions we have received either have it as an understood position by those submitting it or actually stating in the submission that they feel either the authority does not do enough inspection or should have greater powers to do inspections in relation to the various matters that come before it. Some people have suggested that the authority should be empowered to do spot checks, or at least checks after notice is given, on a regular basis of the various registered political parties and organisations. Do you have a view that the authority should have greater powers of inspection?—A. As previously pointed out, the powers of inspection of the authority are so limited that they might as well not exist. The prerequisites are virtually establishing some form of an offence before an inspection can take place.

Q. What about an alternative that was suggested today by one of the witnesses, which was that some sort of annual or regular system of audited reporting be required of the registered parties?—A. That would be fine. There would be no problem with that. What I think ought to be borne in mind is that the authority has, with its limited resources, been

able to administer the Act to a level that I feel most candidates and parties are satisfied with. If vast inspectorial powers are to be set up under the legislation, the cost of that could reach the stage where it costs nearly as much to administer or costs a quarter of the value of the fund to administer, which I think would be a bad thing. I do not think that would probably be seen as an acceptable solution. If an inspectorial body was to be set up along the lines of the taxation department inspectors, the cost administratively would fly in the face of what election funding is all about. I do not think it was set up to create a bureaucratic nightmare; it was set up to ensure public funding on the condition that full disclosure was made.

If it gets to the stage where to ensure that full disclosure is made hundreds of thousands of dollars have to be set up for inspectorial services, I think that the spirit of the legislation would be well and truly washed away. But if there was to be a system whereby an annual reporting of the registered political parties was submitted to the authority, I think that would pose no problem, but the situation would arise of whether that would be made public. If they were made public, would we have the media then raising certain issues which would require a detailed inspection? As you are aware, probably the only time that election funding matters capture the public's attention is at a time after a general election when allegations and counter-allegations are made. If this was to be done on an annual basis, there could be problems. It depends on the attitude of the parties and the candidates concerned, and I think it gets into the area of contributions, which is the real problem area within the legislation.

Q. You addressed a question I was going to ask about whether you would need extra staff in order to cope with any extension of powers. On the question of penalties, who should be liable for defaults under the Act? Would the system be widened in any way? Have you found in the 10-odd years that the system has been working that the authority has felt that it could not really proceed in a case where it wanted to proceed

because the real villain of the piece, as it were, was not liable under the Act, for one reason or another? Have you run across any problems of that nature?—A. No. We have not run into any problems there. I think the Act provides that the registered agent virtually carries the can for the party and it could be quite conceivable that the registered agent is an innocent participant in some fraudulent declaration or other but the question of the proper person to be prosecuted for a breach of the legislation is not something which has been of concern to the authority mainly because the authority, apart from a handful of cases, has been required to turn its mind to whether in fact anyone should be prosecuted. We have instituted proceedings against persons for failing to lodge returns, which is probably one of the minor offences under the Act but it is the one most easily proved. It has resulted in one conviction which brought a $1,600 fine as a result of court proceedings earlier this year. But as to the question of looking behind transactions to see who is the real guilty person, whether it be the agent or some officer of a party or some person outside the party, no, that has not been a problem because the authority has not considered that many cases which it would want to institute proceedings against.

Mr EGAN: Are there any other changes you would make to the legislation of an administrative nature or changes that did not alter the philosophy behind the legislation?—A. I think it might be of benefit if the legislation contained a provision similar to the Commonwealth provision whereby when a party applied for registration there was provision in the legislation to advertise the fact that an application had been made and calling for objections. Two cases spring to mind. There is the Socialist Labour League registered as a party in order to contest the by-election at Liverpool. Their abbreviated name was given as SLL but it contained the word "Labour" even though it was spelt differently and there was no power or it was not required to be advertised so that the Labor Party, if it felt this was impinging upon their name, could have objected and placed the matter before the authority.

I spoke to the general secretary of the Labor Party and formally advised him that we had received this application. He indicated that the party did not or would not object to its registration but that would not necessarily be the case in respect of other instances, and therefore the authority could be subject to proceedings in equity restraining them to do certain things which might have been more easily overcome had the formal objection process existed. Another occasion was were a party sought registration under the name of the New Country Party, I think it was. Anyhow it had the words "Country Party" in it and the National Party objected through its solicitors. But that was only established because the people who were establishing the party had embarked on some publicity campaign. Once again the authority would have liked to have been in a position to deal with it formally advertising and formally calling for objections rather than dealing with it in an ad hoc fashion.

In that particular case the solicitors for the National Party did indicate that if certain courses were undertaken they would seek relieve in equity. Fortunately that was able to be resolved and they are now registered, but that is one thing that I think the Commonwealth does have that could well be considered for inclusion in our Act. Another problem that we find in the Act is that parties cannot claim for money they expended on behalf of a candidate in a by-election. The way the Act is worded at present only candidates can claim for by-elections. You could have a situation where someone might spend $100,000 which is not uncommon. There have been a number of by-elections where various parties have spent $100,000 on behalf of a candidate and in order to obtain a return of their entitlement, certain fictions are resorted to which the authority is aware of because parties cannot claim. I think we had a case in the Northern Tablelands by-election where the Labor Party spent a huge amount of money. I understand at the Hills by-election the Liberal Party on the other hand expended quite a deal of money. It is quite obvious that the candidates do not pay for it themselves nor does it come from

contributions from their branches and why the hell not let the parties claim because they are the ones who are expending the money.

At the time of a general election, of course, the parties are expending their money and they get their money back, depending on the amount of votes they receive in the Legislative Council and the candidates do not spend as much as a rule except in marginal seats perhaps which is covered by statewide coverage by the Liberal Party, the Labor Party, the National Party and whatever. Those two things are of concern in the legislation at present which we do not see as a real reason not to have included.

Q. Do you have any idea or any impressions as to whether there are a number of instances of false or incomplete declarations of people not providing information as to donations or expenditures?—A. In so far as expenditure is concerned, no we do not. There is no incidence of people not disclosing what they expend. On the other side of the coin, contributions, there may be good reasons why they would seek to not disclose but so far as expenditure is concerned, I do not think there exists any reason for them not to disclose. It is not in their interests. The only problem you might find is if a candidate is battling to achieve his maximum entitlement and he might claim for expenditure which the authority does not consider to be election campaign expenditure. So far as expenditure is concerned the problem does not exist with non-disclosure. It is in the area of contributions that that problem lies.

Q. When you say the problem lies there, how significant a problem is it?—A. So far as contributions are concerned?

Q. Yes?—A. In the light of the recent Independent Commission Against Corruption there was a deal of concern expressed but as I say, I understand this is to be covered at a later date. The Chairman himself will be attending to talk about the contribution side of it. I might well accompany him but he has very strong views about what steps should be taken

to eliminate or hopefully eliminate problems which arise in that area.

Reverend NILE: You mentioned that you cannot legally advertise applications for new registrations of parties?—A. That is so.

Q. That means that there is no money allocated for advertising. There would be nothing to stop you advising all the existing registered parties that you have received the application? You would have authority to do that?—A. There would be nothing to prevent the authority from advising all registered parties that another party had sought registration. But even if a party objected to that party being registered, there is no formal legal process for objections to be lodged. Under the Commonwealth system there is a requirement that before the authority can register the name it must advertise and virtually call for any objections by anybody, not only other parties. It can be anybody in the community. That is what we are seeking. It might well be that the objection might lie from somebody or some organisation that is not connected with a party already registered.

Q. The new party name could overlap another party's name?—A. That is right. For instance, a party could apply for registration on the basis of stopping people from hunting whales, not that that is an issue these days, I do not think. A genuine organisation with that objective but without political inclination might well object to the registration of that name. It could say that the people concerned are not really concerned with that matter at all even though they are calling themselves the Save The Whale Party. It is not confined merely to other political parties; it could be other community based groups.

Q. Some witnesses have suggested that we should have people on the authority representing the Independent Commission Against Corruption. In your experience, has it worked reasonably well by having a chairman of the authority, someone nominated by the Premier and someone nominated by the Opposition? That means that the political parties know what is

going on, that all the cards are on the table so to speak?—A. It has worked well. I have been in the authority since 1984. There have been no problems within the authority. I do not think there has ever been a majority decision. I am aware of suggestions that it could be constituted better. This is a policy matter which the chairman has indicated he will address when he attends the meeting in March, or whenever it is, dealing with contributions. The chairman has strong views on that and he will inform you of those himself.

Q. Would there be any practical problems from the authority point of view if the threshold was eliminated altogether or was a nominal threshold of 500 votes for Legislative Assembly candidates and 10,000 for Legislative Council candidates?—A. None whatsoever. All it would do would be increase the number of people who would receive money. That is only a minor clerical thing of drawing up voucher procedures, cheques and things of that nature. At the last election, of the 366 Legislative Assembly candidates, 272 were eligible for funding. So two thirds we have to process anyhow. We have to process everybody's return irrespective of entitlement to funding. So it would not impose an administrative burden on the authority. If that were to be done, it would be a matter of political philosophy as to whether there should be a threshold and, if so, what it should be.

Mr HATTON: Could I have those figures again? How many candidates?—A. In the Legislative Assembly there were 366 candidates, of which 272 were eligible for payment, so 94 were ineligible for payment. But all 366 had to submit documents.

Reverend NILE: That was the point I was trying to make. I have always understood the funding was brought in initially not to help the two major parties, which are quite strong, but to open up the whole democratic process to encourage more involvement, new candidates and independent candidates. You have to start off somewhere and you may not always get to the threshold straight away; it may take two or three elections?—A. True.

Q. It would be fairer if there were a lower threshold or no threshold, if you are talking about encouraging greater democracy?—A. Once again, that is a matter of political philosophy. Whatever the legislation of the day provides, the authority is required to administer. There is no problem administering if the threshold remains the same, is raised or lowered.

CHAIRMAN: Referring to your suggestion of looking at the Commonwealth of dealing with objections, as it were, to the registration of a new party, I can understand the business about advertising but how would you arbitrate on the objections? Does the Commonwealth empower the Commonwealth equivalent authority to make a determination?—A. Yes.

Q. Whereas I gather there is not any power under this Act for you to make any determination: if someone wants to register, he can register?—A. Yes.

Q. Even if the name is similar to the name of an existing political party?—A. The present State legislation provides that the authority will register a party which applies for registration unless certain things apply. This is in section 29. This provision is now contained in the Parliamentary Electorates and Elections Act by virtue of the recent legislation. The electoral commissioner may refuse to register a party if it does not meet certain requirements: if he believes on reasonable grounds that the particulars set out in the documents supporting the application are defective; if it comprises more than six words; is obscene or offensive; is the name, abbreviation or acronym of the name of another registered party or nearly resembles the name; or comprises the word "Independent" party. It narrows the grounds to those things spelt out in the Act. It may be that there are other considerations which, if objections were lodged, could persuade the electoral commissioner, who will now be responsible once this Act is proclaimed to commence, not to register it.

An example is where someone seeks to register a party that is implied to represent a popular cause, which in fact it does not. Someone may register a party, and give the

impression that that party supports the RSPCA, when in fact it does not. Perhaps the Electoral Commission should have power to refuse that registration, whereas now grounds for refusal are defined in the Act, but perhaps not widely enough.

Mr SOURIS: Is there an incidence of candidates who do not expend sufficient to claim the maximum that they would otherwise have been entitled to?—A. Who spend less than what they are entitled to?

Q. Yes?—A. Yes, there are a few. The Premier was one. Mr Moore was another. It only arises in electoral districts where a particular candidate or party has no expectation of a close election.

Q. It would apply only in metropolitan seats where there is a broad party coverage?—A. Yes, or in seats where there might be only two or three candidates. Such an incidence was Gordon. Under existing legislation they would have been entitled to funding.

Q. Roughly how much money would not be claimed?—A. Approximately $197,000.

Q. Because of that system? Because candidates did not reach sufficient level of expenditure?—A. No, that would have accounted only for about $15,000, where a candidate did not spend his maximum entitlement.

Q. By the sound of it, with those two candidates you have got the figure?—A. There may have been another one.

Q. Is there an incidence of advance payments requested subsequent to an election? We know from evidence that the Labor Party does that. Do other parties do it?—A. The Labor Party does. The Call to Australia Party also has obtained advance funds. They are the only two parties who have ever applied for advance payments.

Q. Do you have an opinion about the concept or problem of that being based on a past election and that it is in theory to pay for expenditure for a past election, and that an advance payment for the next election is used to as it were pay off past debts from the previous election?—A. That is not something that has been considered by the authority.

Legislation requires that debts be incurred within two years of the polling date. Therefore there has never been a suggestion that the advance payment is used to pay expenditure already owing from a previous election.

Q. What would the money be if not for a previous election?—A. For research.

Q. Which would be an expense of the next election?—A. Yes, and it is deductible from the entitlement for that election. It could be research into voting trends or market trends or whatever. That is what the authority has been told.

Q. It is not to pay off past debts?—A. No.

Q. It is not permissible to do that?—A. No. The expenditure has to be incurred within two years of the previous polling date. That is why we examine the accounts and the amount claimed. If it is incurred prior to the previous polling day it would not be paid.

Q. When you examine the accounts, do you trace the receipt of the money and the banking thereof, and then the expenditure thereof?—A. No.

Q. At the next election you ensure that there are sufficient accounts to cover that amount?—A. No. If a claim is made for an advance payment we demand to see an invoice or an account from whomever it may be, a research company, and check the date the service was incurred. The most common claim is for research. It might be for research into a particular matter from January 1990 to June 1990. We sight the documents. We just do not pay the money and deduct it from what is allowed next time. The Act specifies what the money may be used for, electoral campaign expenditure in connection with the holding of an election. The authority certainly does not pay money in advance to cover debts of a previous general election.

Mr PHILLIPS: There has been discussion as to whether there could be ways of streamlining the processing of documentation through the funding authority. One proposal was to adopt the Federal scheme, in which audited returns are submitted by a qualified auditor, and that is sufficient to

obtain funding. What is your reaction to that?—A. In other words, if the return is submitted and an auditor certifies it is accurate following the sighting of documentary supporting evidence, that it be accepted on face value?

Q. Yes?—A. My experience is that documents are lost between the auditor and the authority——not in all cases but in many cases——and perhaps the auditor does not take the audit of a claim as seriously as he should. In many cases we have to raise matters again with the candidate or his agent, because certain things are not found to be in order, even though the auditor said the supporting evidence is there.

Mr MURRAY: Why would the candidate have the claim audited if you audit it?—A. We do not have access to bankers books and the like, which an auditor would have. One would assume that auditors are able to conduct a more stringent audit than can the authority. Basically the authority goes through the matters claimed as expenditure or contributions and checks that they add up and that they are supported. We do not have access to bank books or the accounts of the candidate or his agent. We look to check that what is claimed is claimable and is supported, up to a certain amount, and then we accept anything. As a political philosophy, if the Government of the day decided to accept that, if would not worry the authority.

Mr PHILLIPS: Is that how the Federal system works?—A. To my understanding, yes.

Q. The audited amount is accepted?—A. Yes.

Q. You said earlier that in spite of all your checking you have found no incidence of people claiming expenditure they have not incurred?—A. That is correct.

Q. That tends to support that candidates are not cheating the system?—A. Sometimes a claim is made for a purpose that the authority does not consider to relate to an election campaign expense. For instance, if a claim is for $500 for steaks and sausages for an election night barbecue or function, the authority considers that that is not an election campaign expense, and will deduct that amount from the declaration of expenditure. If a candidate does not have a

sufficient amount of expenditure that will be deducted from his entitlement. The authority has also had instances where a lady went and had her hair done and spent a couple of hundred dollars on cosmetic attention and a gentleman went and bought two or three new suits to enhance his appearance for the campaign. The authority would not meet those costs. We said, "We have no doubt that you spent the money but that is not an election campaign expense". These guidelines were laid down by the authority some time ago. It is the case that a candidate has never declared expenditure when he did not actually outlay money. But some of the things candidates have claimed the authority has not been prepared to meet and has said, "That is not election campaign expenditure".

Q. Is there a way of overcoming this enormous amount of paperwork to justify advertising? A candidate has to produce a copy of every newspaper in which he has lodged an advertisement——not just a copy of the advertisement. Even if a candidate runs the same advertisement four times he has to produce four newspapers and lodge those papers with the authority?——A. Yes, I know and some newspapers are quite thick. It would be great if we could get rid of this requirement.

Q. Canberra got rid of it and it has not caused any problems?——A. That is right. If the Commonwealth system were adopted in New South Wales it would pose no problem. We have not knocked back many claims for expenditure on the grounds that they were not claims for electoral expenditure. Often, only a few hundred dollars are deducted from a claim for about $30,000 or $40,000. So it does not have merit. My only criticism would be that there is not full substantiation. But, once again, it is a matter of political philosophy. So far as the authority is concerned, if that is what the government of the day wanted, the authority would have no problem with it. We would certainly be able to empty out a few filing cabinet drawers containing many papers. Do you believe there is a need for candidates to provide invoices or receipts or should it all be left to an accountant to certify?

Mr BULL: Why could you not adopt the system used

by the Australian Taxation Office and move towards spot audits?

Mr PHILLIPS: Self-assessment?

Mr BULL: You would then run the risk of being caught if you fiddled the system?—A. Would an inspectorial staff be included in that system?

Q. You are doing that anyway. You are pouring through all these documents before you hand out money?—A. That is right, but we have the documents before us, whereas if we accepted an auditor's statement we would have to go to the candidate and say, "Bring in all your gear as we have to make an assessment of your claim".

Mr MURRAY: Is this the authority's interpretation, or is it a regulation? For example, people have to submit a multiplicity of photostat copies of advertisements.

Reverend NILE: People have to submit original papers, not photostat copies?—A. This is included in the regulations.

Mr MURRAY: The regulations specifically state that you have to put in X number of originals?—A. The regulations state that a candidate has to vouch for receipts, accounts or a mixture of both issued in respect of expenditure.

Q. So the regulations state one copy must be produced but you have interpreted that as a multiplicity of copies?—A. No, the authority requires only one copy of each advertisement.

Reverend NILE: It could be the same advertisement?—A. It could be the same advertisement.

Mr MURRAY: What do the regulations specify?—A. They do not state that the paper has to be produced; the authority determined that way back in 1981.

Q. So it is your interpretation?—A. It is the authority's interpretation.

Q. Which can be changed?—A. That is right.

Q. Without legislation having to be enacted?—A. That is right.

Mr BULL: From your experience, should we move to

a system which is similar to the Federal system?—A. Yes.

Mr MILLS: This morning we received evidence from one of the witnesses that the Federal Act includes returns which are submitted from printers, publishers and broadcasters. If that is the case and this is a way of checking on the validity of parties' claims, what kind of addition to your workload would Federal legislation involve? Knowing the sort of expenditure that is coming through, do you believe advertising agencies and research companies need to be included?—A. If the returns required under the Commonwealth Act which relate to printing and newspapers were to be submitted to the Electoral Funding Authority and they were to be individually checked, the workload would be quite large; it would be an administrative nightmare. If it were to be done on a spot check basis, as seems to have been suggested, I do not think it would pose a problem. You ask whether the provision should be extended to cover advertising agencies and the like?

Q. Yes. It is a broad question covering advertising and expenditure. I presume broadcasters, printers and publishers do not account for more than half the expenditure people would be claiming. A lot of it would be for art work and research. Do you have any idea of the figures? Have you done an analysis of the claims?—A. The majority of the cost is for the published article. Art works and photographs would not even represent half of that cost. So I think we are looking at no more than 10 per cent for art work.

Q. We have had a submission, though there has been no evidence to this effect, that it is a pity the system, for payments could not be streamlined to make them speedier in line with the Commonwealth system where claims are met a few days after an election. Do you have any comment on that sort of complaint? Does it take that long?—A. After a general election claims are required to be submitted within 90 days after the return date of the writ. Let us assume 90 days is three months and claims have to be in three weeks after the return date of the writ. So we are looking at nearly four months before payments are made.

My experience is that 50 per cent of the claims from the 1984 and 1988 elections from candidates were submitted in the last fortnight of that period. As to claims for the parties, in 1988 an extension of time was sought and granted by both the Liberal Party and the Labor Party. Therefore, I do not think that the parties or the candidates are in a position to provide their auditors or anyone with figures a couple of days after polling day because at the present time nothing happens until about the last week or two, and then on the last couple of days the telephone just does not stop ringing with agitated agents or candidates wanting an extension of time because their auditor is not available, or something like that; and we manage to process the claims pretty quickly.

Q. So if you get your return in within a few weeks, it will be processed quickly?—A. If a candidate is able to get a claim in within two weeks of polling day there is no reason why he or she could not have the cheque the next day, or processed, because there is no bulk.

Reverend NILE: But all the invoices and accounts would not be in, and that is where the delay occurs.

Mr MILLS: I have no further questions at this time.

Miss KIRKBY: Mr Wasson, I think I quote you correctly in that earlier you said that some people might be claiming expenses that they did not incur. Do you have any evidence of that? Has it been your experience, and can you prove that statement?—A. No. What I said—and perhaps it was misconstrued—was that we find little or no evidence of people claiming for expenditure which they did not incur because it has no benefit for them at all. There is no reason why somebody would say they spent $50,000 on an election when they only spent $40,000. What I said in response to Mr Phillips was that we find that people claim in their declarations, as electoral expenditure, items of expenditure that the authority does not consider relevant to an electoral campaign. For instance, costs might be incurred for an election night get-together where the candidate puts on a bar-b-que and all his

workers and scrutineers come around and have a drink and whatever. The authorities say that is fine but you cannot claim that as an election expenditure because they do not consider it falls within that category.

Q. This morning we heard much discussion about auditing. It was suggested that if a claim was audited and presented to you as authentic by the auditor for a party, then that is all the party or the candidate would have to do. You also made a statement that auditors perhaps do not take matters as seriously when they are auditing an electoral claim as they do when perhaps auditing the books of a proprietary company. Is that your experience with auditors, and is that another reason why you might feel why it would be an advantage to the funding authority if they had personal access to books and documents?—A. I do not wish to malign on auditors, accountants and professionals, but we find cases where straight returns do not add up, yet they are subject to a certificate by an auditor——and they are basic returns.

Reverend NILE: Probably it is the education system?—A. It is only if something does not add up by $10,000 or where a receipt is shown as being attached but is not attached. It is not the end of the world and it is not fatal to the claim. I do not think that an auditor signing a certificate and stating, "I saw everything there and that is how much it cost", would interfere with how much money a person was to get. But the way the authority was constructed way back in 1981, I think it was probably thrown together about three months before the 1981 general election, and nobody knew much about it. There was no Commonwealth model for study. New South Wales was the first State to have funding in Australia. At that time a whole set of guidelines were developed, and quite properly at that time the authority was most concerned to see whether they were paying out money that was properly accounted for, and that everything was accounted for. That is why they must have sheets of newspapers that show that a candidate did advertise on a particular day. Perhaps with parties and candidates becoming more used to funding, after

three general elections, and where there is a need for stringency, I think the fear that the authority could be seen to be not policing its role strongly no longer exists. I have no problem about audited returns being submitted without documentary proof. I cannot see that as a problem.

CHAIRMAN: The bottom line means that the vast majority of candidates would spend far more than they are entitled to get back from the election fund, and in spite of all the errors that you might or might not find, it does not affect the pay out?—A. Not in the slightest. The people who fall below their entitlement are not going to worry about whether or not they can tackle another $100 or something which might be dodgy or doubtful. I take the point. I spoke with Fergus Hynes on this matter, and he might be the person who raised this earlier with someone from my office. He came and saw us. He ran that by us a week or so ago. The more I thought about it, though I was not attracted to it immediately, the less problems I saw with it in any event as a means of streamlining the way the authority runs. The other area is contributions. I am not sure whether or not that would lend itself to that sort of unsubstantiated declaration, even though audited.

Q. A candidate will spend more contributions in any event?—A. Yes, if it was a flat statement that a candidate received $5,000 in contributions without any details as to the source—but in that instance we are heading into another area.

Mr MURRAY: I would like to look at the size of the organisation. If we are to look at a few operations we might as well determine the status quo at the moment. What is the staff complement for the Electoral Commission?—A. The Electoral Commission as distinct from the authority?

Q. Yes?—A. Thirty.

Q. And casuals?—A. Casuals are employed on a needs basis if we are running industrial ballots or if we have stuff to be prepared heading into a general election. It fluctuates: sometimes it might be up to 50 and 60, at other times one or two.

Q. When you are on a roll you may have 40 or 50?—A. At the time of a general election we would have anything up to 40 or 50.

Q. And the Electoral Funding Authority?—A. The Electoral Funding Authority does not have any staff who are permanent solely attached to the Electoral Funding Authority. Ten per cent of the salary of the Chairman, who is also the Electoral Commissioner, is charged against the money we get to administer the Election Funding Act. I am the secretary of the authority; I am also the senior administrative office in the State Electoral Office and the principal returning officer. I think about 15 per cent of my salary is attached.

Q. In terms of staff numbers, the Electoral Funding Authority is actually run by the State Electoral Office?—A. That is so. There are about six people in whose statements of duties there is some electoral funding work. They go from the Electoral Commissioner, or Chairman, down to the receptionist.

Q. How would that compare with other States, say, Victoria?—A. They do not have election funding. They were going to introduce it, but it never made it in the House.

Q. Queensland?—A. Only New South Wales has election funding.

Q. The Commonwealth?—A. The Commonwealth, apart from the commissioners, has a full-time staff of about three or four.

Q. That is in electoral funding. What about in the Australian Electoral Commission?—A. In New South Wales they would have a whole lot of people there. Funding is dealt with centrally in Canberra for the Australian Electoral Commission. There is no group over in the Australian Electoral Commission in New South Wales that deals with election funding matters in New South Wales. The whole of Australia is dealt with in the central offices. I think there are three or four people who deal with it there, plus, of course, the commissioners and other support staff which they would get at the time of an election.

Mr EGAN: Why would they need three or four staff when there are no full-time staff on the Electoral Funding Authority in New South Wales?—A. There are more candidates.

Q. Not that many?—A. I have no idea.

CHAIRMAN: You could ask that question about a whole lot of things.

Mr EGAN: That is why I asked it.

Mr MURRAY: There are 145 against 109, and 65, is it not?

Mr EGAN: They do not have a constituency fund?

Mr MURRAY: It is all party, is it not?

Mr EGAN: It is outrageous.

Reverend NILE: In defence of them, they always seem to be sending out letters and asking questions.

Mr EGAN: Could we make sure that a copy of this transcript goes to the Commonwealth Electoral Commissioner.

Mr MURRAY: With the word outrageous deleted.

Mr EGAN: No, underlined.

Mr MURRAY: Have you had the opportunity to look at electoral funding authorities in other countries?—A. No, I have not.

Q. Have you done much reading on them?—A. Yes, I have read quite a bit. It seems to touch more on the philosophy of election funding in other countries. I had a visit from a gentleman by the name of Professor Keith Ewing, who is an expert on the Canadian system—he has written books and reports—and also on the British system. He was in Australia, and I had quite a few meetings with him, but he was more or less into the philosophy of the other side of it, the contributions side. He has written books about the situation in America, where they have the PACs, as they call them, which came under considerable criticism after the Nixon election in the early 1970s, but the legislation they introduced in America failed on the grounds that it breached the Bill of Rights over there. There was the right to contribute. The American Supreme Court guards very jealously those rights. I am not unfamiliar with situations in other countries but I am

certainly not familiar with the nuts and bolts of how they process these returns, only with the philosophy. I understand the Committee is going to go overseas, and I would be very interested to find out how they do it.

Q. I was interested to hear your comments on self-assessment, where you indicated to the Committee that you were having second thoughts on that. Could you spend a little time in preparing a paper for the Committee in relation to the administrative changes that would be required if self-assessment was brought forward?—A. Self-assessment supported by an auditor's certificate?

Q. Yes, and a spot check system?—A. Yes.

Q. There is no good us looking at that and feeling a warm inner glow if it administratively cannot be enacted. It would be helpful if you would put something down on paper for us. How much did we pay out last year to candidates?—A. In the 1988 election?

Q. In the last election, yes?—A. Constituency fund for the Legislative Assembly, $1,722,360—$1.72 million.

Q. That is the lower House. Then the upper House?—A. I may have misled you there, I am sorry. That was the amount available for distribution. The amount spent from the constituency fund was about $1.8 million.

Q. That is to members who contested elections in the lower House?—A. That is right.

Q. And the upper House?—A. In the upper House there was $3.4 million available for distribution. However, the Liberal Party-National Party exceeded 50 per cent by $82,000, so it is $3.3 million.

Q. What about the party fund? What went out to that?—A. That is the party fund.

Q. The party fund covers the upper House?—A. That is right.

(The witness withdrew)

(The Committee adjourned at 3.50 p.m.)

NATIONAL PARTY OF AUSTRALIA - NEW SOUTH WALES

The National Party declined the opportunity of appearing before the Committee. Instead, they sent in a written submission as follows.

NATIONAL PARTY OF AUSTRALIA - NSW

Submission to Joint Select Committee upon the Process and Funding of the Electoral System

1 The National Party of Australia - NSW organisation strongly supports the continuation of public funding of political parties as this reduces the need for parties to be mendicant upon donations from non-members/outsiders.

2 The National Party believes the current provision of public funding is inadequate in that it only pertains to election campaigns. The Party organisation believes public funding should assist in maintaining strong party structures in between election campaigns, these being important in a vital parliamentary democracy.

3 The National Party strongly believes that donors to political parties have a right to anonymity in a democratic society and this view has been publicly stated by its State Chairman, Treasurer and General Secretary elsewhere.

4 Likewise, the National Party does not support the view that public funding of election campaigns should be dependent upon disclosure of the identity of campaign donors.

5 The National Party believes that the State election funding

system could be streamlined so that payments to eligible parties, candidates and groups are more speedy - as is the case with the Commonwealth which makes payments (subject to vouching, of course) almost within days of elections.

6 The National Party notes that the ALP has recently stated it is no longer a "mass party", its Australia-wide membership having slumped in recent years.

The National Party also notes, however, that the ALP, with its symbiotic relationship with the trade union movement draws heavily upon that source for financial support. It is not unusual for a single union to give hundreds of thousands of dollars to ALP campaign funds and this comes, of course, on top of union affiliation fees.

The Labor Party is, therefore, largely financially independent of a mass membership for fund-raising purposes.

The Liberal Party has relatively low membership fee levels and low membership numbers. Corporate and individual donors provide that Party with its main source of revenue.

The National Party is now the only political party with a "high" membership fee ($50 p.a.) and a mass membership.

The National Party believes that the public funding system

as it now is, has a bias towards those parties less reliant upon support from their own subscribing members and that this bias should be addressed in a review of the system.

7 On the subject of disclosure of expenditure of funds by candidates, groups and political parties, the National Party recommends that the Commonwealth provisions are superior to those demanded by the NSW Act. The Commonwealth provisions are less bureaucratic and time-wasting to all concerned than the system which operates at the State level and should be emulated in the State Act, if not abandoned altogether. After all, the information gathered is of little use to anyone but to a handful of psephologists and apparatchiks, but the cost of gathering the information is enormous.

FURTHER SUBMISSION BY THE ELECTION FUNDING AUTHORITY

ELECTION FUNDING AUTHORITY

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Fax: 360 4899

Ms A Olsson
Project Officer
Joint Select Committee upon the Process & Funding
of the Electoral System
Room 1134
Chief Secretary's Building
121 Macquarie Street
SYDNEY NSW 2000

Dear Ms Olsson

You will recall that in the course of giving evidence to the Committee on 18 December 1990 I agreed to prepare a paper for the information of the Committee in relation to claims for payment lodged under the provisions of the Election Funding Act.

The paper prepared in this matter is enclosed. I should point out that the views expressed therein are mine and should not in any way be considered to be those of the Authority.

Yours sincerely

J Wasson
Secretary

5 February 1991

ELECTION FUNDING AUTHORITY OF NEW SOUTH WALES

ELECTION FUNDING ACT, 1981 - CLAIMS FOR PAYMENT

Under the provisions of section 23 of the Election Funding Act the Election Funding Authority has the responsibility for dealing with, inter alia, claims for payments under Part 5 of the Act lodged by parties and candidates.

Section 24 of the Act empowers the Authority to determine and issue guidelines not inconsistent with the Act or regulations in respect of any matters dealt with in the Act.

Part 5 of the Act comprising sections 55 to 82 deals with public funding of elections campaigns. The relevant provisions in relation to payments are:-

Section 55: This section defines generally the expenditure which, for the purposes of the Act, is considered to be for election campaign purposes and thus proper for inclusion in any claim for payment. Clause 7 of the Election Funding Regulation, 1981 also defines items of "election campaign expenditure".

The section also provides that the decision of the Authority on the question of whether expenditure is or is not expenditure for election campaign purposes in accordance with the Act, regulations or guidelines determined under section 24 is final.

Section 74: This section provides, inter alia, that the Authority may only make a payment where the claim is audited by an auditor.

Section 75: This section provides to the effect that a claim shall be deemed not to be validly lodged with the Authority unless accompanied by a certificate stating:-

(a) full and free access was given to the auditor to all accounts, records, documents etc relating to the expenditure referred to in the claim;

(b) an examination was conducted such of those accounts, records, documents etc considered by the auditor to be material for the purpose of giving the certificate;

(c) the auditor received all information and explanations requested in respect of the expenditure referred to in the claim;

(d) the auditor is satisfied, from the information available to him, that the expenditure in the claim was incurred and having regard to the Act, regulations and guidelines under section 24, the expenditure is properly subject of a claim;

(e) the auditor has no reason to think any statement in the claim is incorrect.

Section 76: This section provides that expenditure specified in a claim for payment must be vouched for in the prescribed manner.

Clause 8 of the Election Funding Regulation 1981 provides to the effect that printed election campaign expenditure must be vouched for by the production of a copy of the material together with accounts or receipts in respect thereof. Copies of the text of any advertisements in the electronic media together with accounts or receipts in respect thereof are also required.

Where the amount of this expenditure is less than the claimant's entitlement under the Act receipts or accounts are required in respect of other election campaign expenditure e.g. administrative costs up to the amount of the entitlement.

Section 78: This section provides that a payment cannot be made unless declarations of political contributions received and electoral expenditure incurred in compliance with Part 6 of the Act have been lodged with the Authority.

* * * *

From these provisions it will be seen that the Act contemplates that only expenditure which the Authority considers to be "election campaign expenditure" is to be included in a claim for payment. This is demonstrated by the particular requirement that the auditors certificate required under section 75 must include a statement to the effect that the auditor has considered this aspect in the light of the provisions of the Act, regulations and guidelines.

Members of the Joint Select Committee appear to be considering removing the requirement contained in section 76 of the Act and Clause 8 of the regulations that claims be vouched for by the submission of audited accounts and receipts supported by samples of the material involved. This would be replaced by an auditor's certificate to the effect that the relevant documentation had been sighted.

This proposal has some attractions from the viewpoint that there would be an enormous reduction in the material required to be lodged with the Authority for checking. However, there is an important aspect which, I feel, warrants consideration given that claims for payment are met from public funds.

As mentioned, a claim for payment may only be made in respect of items which are deemed to constitute "election campaign expenditure" in accordance with the Act, regulations or guidelines laid down by the Authority.

Since the establishment of the Authority in 1981 some 28 guidelines have been laid down by the Authority in accordance with section 24 of the Act setting out restrictions on certain items which may be claimed as "election campaign expenses". Each of these guidelines have arisen out of the examination of claims lodged with the Authority and this number invariably increases with the examinations conducted following each general election or by-election. A copy of these guidelines are attached. If the proposal to remove supporting documentation were adopted the continuous revision of these guidelines would lapse.

It is worth noting that of the claims for payment lodged by the 272 candidates eligible for funding following the 1988 General Election some 102 had the amount of expenditure adjusted. These adjustments were due to either arithmetical errors in the claim or items which did not constitute "election campaign expenditure" being included. All these claims had been certified by an auditor.

By way of illustration examinations of claims submitted by candidates resulted in deductions of amounts claimed in respect of such items as hairdressing expenses; non-promotional clothing; child care expenses; parking fines.

Whilst of the 102 cases where an adjustment was made only 12 resulted in a reduction in the amount paid to the candidate there is always a possibility of a candidate who has not spent his entitlement seeking to inflate his claim by the inclusion of expenses not related to the election campaign.

From my own experience I can recall a number of instances where it would seem that candidates have succumbed to this temptation but have had their claim adjusted after examination by the Authority.

In such cases an auditor not being fully aware of the provisions of the Act would in all likelihood, upon sighting accounts or receipts, complete the necessary certificate. The absence of supporting information as proposed would result in the Authority not being in a position to assess the propriety of the claim.

As the Committee is probably aware under the Commonwealth Electoral Act candidates endorsed by registered parties do not submit individual claims for payment, these being included in the claim submitted by the Party Agent for the Party as a whole. However, in the case of candidates not endorsed by a party their claims must be submitted to the Australian Electoral Commission individually on a basis similar to that which I understand is being considered by members of the Committee i.e. the claim is unsupported apart from an auditor's certificate. In these instances officers of the Commission have expressed concern that auditors may not be fully aware of their obligations.

I trust that my thoughts may be of some assistance in the deliberations of the Committee.

J Wasson
Secretary

5 February 1991

ELECTION FUNDING AUTHORITY OF NEW SOUTH WALES

GUIDELINES DETERMINED BY THE AUTHORITY

1. Where a vehicle owned by another person is made available to a candidate for use during an election campaign the value of the vehicle to the campaign is to be assessed and declared as a contribution unless a payment which is fully adequate is made to the owner for the use of the vehicle. (Determined 1.4.82)

2. Where an advertisement is published by a candidate after one election, in which is expressed the appreciation of the candidate for the support received in the election, the expenditure incurred is to be treated as election campaign expenditure with respect to the next election. (Determined 1.4.82)

3. Where a referendum is being conducted concurrently with a general election, expenditure incurred by a candidate in advising the electorate how to vote in the referendum is not expenditure with respect to the election campaign of the candidate. (Determined 1.4.82)

4. A donation made by one candidate to the campaign fund of another candidate is not an election campaign expense of the candidate making the donation. (Determined 1.4.82)

5. Where a candidate publishes a newspaper with the primary object of promoting his own election to Parliament and sells advertising space in the newspaper to offset the cost of the publication the net expenditure incurred is election campaign expenditure. (Determined 1.4.82)

6. Where a candidate suffers a loss of pay caused by his attendance at campaign activities, that loss of pay is not an election campaign expense. (Determined 1.4.82)

7. Where a candidate incurs expenditure on an advertisement recommending the election to Parliament of a candidate in another electorate, the expenditure so incurred is not an election campaign expense. (Determined 1.4.82)

8. Where a number of candidates share an advertisement, the benefit is regarded as being equally shared. The value of the share only of a candidate featured in the advertisement is an election campaign expense of the candidate. (Determined 1.4.82)

9. Where goods (e.g. badges) are purchased by a candidate and some or all of those goods are resold, the election campaign expense is the net expenditure incurred in purchasing the goods. (Determined 1.4.82)

10. Expenditure incurred in a fund raising activity is not claimable as an election campaign expense unless the activity resulted in a loss. The net reduction in the funds available for election campaign purposes would then become an election campaign expense. (Determined 1.4.82)

11. Interest payable on a loan raised by a party, group or candidate to finance an election is electoral expenditure. (Determined 1.4.82)

12. The investment of funds donated or raised for election campaign purposes is a fund raising venture and the net interest earned is to be declared. (Determined 1.4.82)

13. Where a voter intention survey is carried out on behalf of a candidate and no charge is made for the service, the value of the survey is to be declared as a political contribution. (Determined 1.4.82)

14. Where expenditure is incurred in a celebration or social function after the close of the poll, the expenditure is not an election campaign expense. (Determined 1.4.82)

15. A deposit paid by a candidate when lodging his nomination for election is not an election campaign expense. (Determined 1.4.82)

16. The Act currently provides that an amount of $200 may be claimed for auditor's fees in connection with claims and declarations. Any amounts above $200 in respect of auditor's fees should be deleted from the claim and declaration. (Determined 1.9.88)

17. Some cases have arisen where a candidate claims as expenditure, an amount given to a party by whom he is endorsed, to defray the cost of advertising expenses incurred by the party. In cases where the party also includes this amount in the declaration of electoral expenditure incurred this could result in "double dipping" and the amount claimed as expenditure has to be deducted from either the expenditure of the party or the candidate. (Determined 1.9.88)

18. Amounts paid for annual subscriptions to newspapers or periodicals are not deemed to be electoral expenditure incurred by a candidate. (Determined 1.9.88)

19. Amounts paid by candidates for purchase of flowers and other gifts to office staff is not electoral expenditure incurred. (Determined 1.9.88)

20. Parking fines imposed on candidates whilst in the course of their electoral campaign is not an election campaign expense. (Determined 1.9.88)

21. Expenses incurred by a candidate or his campaign director in attending party Seminars, "Meet the Leader", functions, etc., are not election campaign expenses. (Determined 1.9.88)

22. Annual motor vehicle Registration and Insurance fees in respect of a vehicle used by a candidate are not campaign expenses. (Determined 1.9.88)

23. Telephone accounts for candidates private telephone outside the election campaign period is not an electoral campaign expense. (Determined 1.9.88)

24. Fees paid by a candidate to scrutineers for services at the count after polling day is not an electoral campaign expense. (Determined 1.9.88)

25. Contributions made and proceeds from fund-raising functions conducted after polling day be accepted as part of the political contributions received by a candidate in respect of the election. (Determined 1.9.88)

26. Non-promotional clothing purchased to be worn by a candidate in his campaign is not election campaign expenditure. (Determined 1.9.88)

27. Candidates hairdressing expenses are not electoral expenditure. (Determined 1.9.88)

28. Payments made for "child care" do not constitute electoral expenditure. (Determined 7.9.89)

SUMMARY OF ISSUES RAISED

AUSTRALIAN DEMOCRATS

The Democrats believe that 4% is the ideal threshold level. This is based on the federal system in which a candidate is eligible for funding if they poll at least 4% of the total first preference votes in an election.

They feel there should be equal financial resources if a party has public support whilst still acknowledging the ballooning of electoral expenditure. They feel the equality of the political process - that is the concept of equal access to resources - has been put into jeopardy .

The party pointed out that candidates are often not familiar with the actual provisions of public funding and the party has to bear the burden in terms of administration. Therefore funds should go to a central source and then be divided up rather than going straight to the candidate.

As to the method of allocation they expressed concern about the fact that in safe seats a higher threshold is required to secure public funding.

Funding should also be gained as a consequence of election in order to avoid the situation where a member was elected to the Legislative Council and yet did not qualify for funding.

The Democrats also raised the possibility of the composition of the Election Funding Authority be altered so as to be less political. That is, they favoured the appointment of either the ICAC Commissioner or his deputy and the Auditor General or his nominee.

They support the concept of funding in kind rather than in money.

The Democrats feel that the amount of money available for funding is adequate although they did make a number of suggestions so as to ensure the system did not get out of control.

The possibility of third parties putting in detailed submissions was raised as a means of maintaining control although the federal legislation has subsequently withdrawn this requirement.

Finally, the idea of a register of lobbyists was raised.

AUSTRALIAN LABOR PARTY

The ALP raised the idea of linking the entitlement threshold to something other than votes although no suggestions were provided as to what that other thing should be.

They also maintained that the introduction of public funding has not contributed to an increase in expenditure by political parties nor has it led to a decrease in participation in the political process.

They agreed with the Democrats that it was logical to have the same threshold for entitlement of funding as well as for the entitlement to return of deposit.

They also agreed on the concept of regular audited statements being lodged with the Election Funding Authority and were flexible as to the time period.

The ALP also raised the idea of continuity of electoral funding rather than linking payment solely to an election campaign and pointed out that the political process is a continuous one. It does not begin and end at election time. To this end they suggested that a certain portion of funds should be allocated to parties for educational research.

They also supported one of the recommendations made by the Democrats in regard to either a ban on political advertising or, if not feasible, then subsidised or free time.

They disagreed with the proposed reconstitution of the EFA suggested by the Democrats and did not believe it would be warranted.

THE LIBERAL PARTY OF AUSTRALIA

The Liberal Party of Australia declined the opportunity to make a written submission. However, their representatives gave evidence to this Committee at its hearings.

They believed that the EFA has operated efficiently with a minimum of fuss and that having people on the EFA like those currently appointed is a benefit as they have a special knowledge of electoral procedures.

The party also maintained that the federal system, in many cases a simpler system, has a number of advantages. They raised the idea that if a claim is lodged and supported by an auditor's certificate the authority need not go beyond that. Reliance should be placed on the candidates agent or auditor. This would minimise administrative work for candidates and avoid duplication of auditing procedures for the authority.

They also believed that the EFA should not have the power to conduct on-the-spot audits.

The Party is opposed to a ban on electronic media use in election campaigns.

They did raise the idea of uniform election funding laws which would help to police the system and avoid interstate transfer of resources yet felt that embarrassment of the candidate is often one of the most effective penalties.

The idea of a register of public lobbyists was felt to be a good suggestion but once again difficulties were seen in how to define lobbyists.

Finally, they suggested the adoption of the federal system whereby the commission concentrate only on certain categories of expenditure provided the information is disclosed and it is sufficient to meet the cost of reimbursement. They believe the Committee should devote efforts to streamlining and simplifying the system rather than adding to the current administrative costs.

THE ELECTION FUNDING AUTHORITY

The EFA quite properly declined to answer questions relating to whether or not the threshold should be changed to 4% as opposed to the current funding requisite. They felt this was a question of government policy and not one that was appropriate for them to comment upon.

They did however say that if the 4% threshold was introduced the result would be to increase the number of people eligible for funding. It would however affect the candidate who came second or third as there would not longer be a cushion for them.

As for the situation regarding the Hon. Richard Jones M.L.C. and his failure to qualify for funding despite the fact that he was successful in getting elected, they agreed that only a simple amendment would be required to rectify the situation.

They also foresaw no problem with periodic reporting.

The EFA also raised an anomaly in that candidates who receive little support resent having to have their returns audited particularly if they are not eligible for funding.

The EFA also referred to the fact that their process of inspection is so limited as to be virtually non-existent.

The Authority suggested that the Committee might look at the idea of enabling them to advertise when an application for registration as a party is made so as to ensure any objections are dealt with in a proper manner.

Amendments allowing the parties to claim money expended during a by-election on behalf of a candidate were also suggested.

The possibility of self assessment was raised and is addressed in the further submission by the EFA.

The EFA also informed the Committee that there was no reason for delay in the processing of returns if candidates were to lodge their returns within two weeks of polling day with all invoices and accounts attached.

RECOMMENDATIONS

The Committee feels the following amendments to the legislation should occur as soon as practicable.

1. The threshold for entitlement of public funding be amended to 4% of the total number of eligible votes polled in favour of all the candidates in the election except that funding should be gained as a consequence of election regardless of the threshold level.

2. The threshold for entitlement of the return of the deposit be amended to 4% of the total number of eligible votes polled in favour of all the candidates in the election or successful election.

3. The threshold levels should be the same for both Legislative Council elections and Legislative Assembly elections.

4. The amount of money which is available for distribution should reflect inflationary changes.

5. The amount of money available to be claimed as a legitimate expense in relation to auditors fees should be increased from $200 to a figure more reflective of current costs.

6. The need to ensure unity between the federal and state government in respect of any legislation regarding elections should be addressed by a Special Premiers conference.

7. Claims for funding supported by a registered public auditors claim should not be re-audited by the EFA. This would enable the EFA to devote more time to investigative

work.

The EFA's fears regarding which expenses are legitimate and which expenses are not should be addressed by the compilation of a list of opinions by the EFA. This list could be similar to the rulings put out by the Tax Commissioner in order to guide individuals as to possible interpretations of the legislation.

8. The areas of allowable expenditure by a political party or candidate should be limited to seven areas as is the case with the federal legislation (section 308 of the Commonwealth Electoral Act 1918).

9. The EFA should be allowed to dispense with the requirement of getting information audited by candidates where no expenditure and donations are received.

10. The EFA should have wider powers of inspection and be able to either investigate allegations of corrupt conduct or alternately refer them to the ICAC as a matter of course.

11. The EFA should be empowered to advertise if a party applies for registration in order to ascertain any objections.

12. Parties should be able to claim for money expended on behalf of a candidate in a by-election.

13. The current system of funding candidates directly should be retained.

FUTURE REPORT

As discussed in the Chairman's foreword, the Committee will be looking at the issues of donations and disclosures whilst on their overseas study tour. The Committee will then be calling for interested parties to appear before them at public hearings to be scheduled in March.

The Committee will also be addressing many of the issues raised by the Independent Commission Against Corruption's report into North Coast Land Development.

In spite of rumours of an early election the Committee will continue on its timetable and anticipates legislation on the recommendations contained in this report to be presented to Parliament as soon as possible.

Any interested parties who require additional information or assistance should contact the Committee direct:-

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