



Dissenting report – Senator Lee Rhiannon,
The Australian Greens



Dissenting Report

JCSEM Inquiry into Funding of Political Parties and Election Campaigns

Prepared by:

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on behalf of The Australian Greens

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Summary

The inquiry has been a missed opportunity to make key advances in federal election funding reform. New South Wales and Queensland have introduced recent legislative reforms to restrict donations and campaign expenditure which must be undertaken at a federal level as a move toward national uniform reform to enhance and protect our democratic system of government.

It is disappointing that the inquiry rejected the opportunity to place caps on election expenditure, to place a total ban on corporate donations, or to support a ban on all donations from the tobacco, gambling, alcohol and property development industries. These four industries have all made large donations to political parties and there is substantial evidence that such donations influence government policies that affect those industries. Prohibiting these industries from making political donations would be a first step in combating the corrupting influence of donations in politics.

In particular, the inquiry missed the opportunity to support the Australian Greens' Commonwealth Electoral Amendment (Tobacco Industry Donations) Bill 2011 that will ban donations from manufacturers or wholesalers of tobacco products by political parties, to end the culture of Big Tobacco buying influence in Parliament.

The inquiry report recommends some small though significant changes to the electoral funding system, which the Australian Greens support. By lowering the donation disclosure threshold to \$1000, and counting all donations to related political parties when determining if a donor has exceeded this threshold, a much larger proportion of donations to parties will be disclosed, enhancing the transparency of the donations disclosure process.

It is encouraging that the inquiry recommends that any donation of over \$100,000 must be disclosed within fourteen days. However, the decision that this rule will not apply cumulatively to multiple donations from the same donor has created a massive loophole. It will not be difficult for a donor to avoid the \$100,000 donation disclosure threshold by making a series of smaller donations over a few days.

The Greens vision for electoral funding

The Australian Greens aim to see elections in Australia funded through a combination of public funding and small donations from individuals, with speedy and transparent public disclosure of donations to allow voters to have access to full information about the source of funding of political parties.

To this end, the Australian Greens recommend:

- A ban on all donations from all entities other than individuals.
- A cap on the amount of money that can be donated in a year from a single individual to a political party or candidates.
- Caps on expenditure by political parties, candidates and third parties.
- Adequate public funding for political parties, including both funding for election campaigning and for other administrative work of the party, with funding based on the percentage of the vote received by each party.
- Continuous disclosure of all political donations above \$100, within two weeks of all donations being made.

Overview

Over the last three decades the scale of spending in Australian elections has skyrocketed, with both major parties engaging in a funding arms race that has seen a rapid increase in the amount of money spent in Australian federal and state elections. The spending increase has outstripped the availability of public funding, and thus private donations to major political parties have increased markedly, particularly from business and lobby groups who are most affected by government legislation.

This growth in donations has seen a culture develop where large donors have gained privileged access to ministers and MPs, and policy decisions have benefited large donors such as property developers. This has contributed to a perception that corporate donors are buying influence. In some cases there is evidence that this perception accurately reflects the real relationship between politicians and donors.

In some states, such as New South Wales and Western Australia, these issues have resulted in a series of scandals where ministers have been exposed making decisions to benefit key donors. Property developers have particularly developed inappropriate relationships with local councillors and state politicians who make decisions about property development. While this poisonous culture has been most obvious in states like New South Wales and Queensland, donations continue to buy influence in federal politics and in every state in the country.

Current electoral funding laws not only allow these large donations, but they make it difficult for most people to identify who is donating to whom. High disclosure thresholds and loopholes allow many tens of thousands of dollars to be donated to a political party from a single company without being disclosed. Lengthy disclosure periods mean that donations made in the lead up to an election are kept secret until well after the election is held. While it is easy to dismiss concern about the corrupting influence of donations as a mere perception of corruption, it is impossible to have definitive answers as long as large political donations can remain a secret.

The Greens NSW launched the Democracy for Sale research project's website in 2002 in order to shine a light on the influence of donations on the political process. This website has compiled information from donations returns to the Australian Electoral Commission and the NSW Electoral Funding Authority, classified donations by donor industry and provided them in a transparent and easily accessible format that allows the public to view at a glance where political parties are sourcing their funding. Official disclosure websites have often failed to do this.

We have now begun to see some movement in the states. New South Wales passed new laws in late 2010 that placed caps on donations, put limits on campaign expenditure, and banned donations from certain industries. Following the 2011 state election, the new government in New South Wales has proposed legislation to impose further restrictions on campaign donations. The Queensland government has also begun to make moves in the direction of restricting donations and campaign expenditure.

Federal legislation is central to tackling the issue of reforming the culture of political donations. Australia's political parties are mostly national organisations and money regularly flows from one state to another. It is impossible for states to

effectively reform the electoral funding system without reform on the federal level. For example, the new laws in NSW can still be effectively circumvented by donating to a federal election campaign. These donations can still have a corrupting influence on state politics.

Internationally there is a trend towards electoral funding reform. The Australian government is falling out of step with other western democracies that are strengthening their democratic processes.

Short term measures

While the Australian Greens support comprehensive reforms to the electoral funding system there are a number of interim steps that should be implemented to increase transparency and public trust in the electoral funding system.

1. Common funding rules for Commonwealth and State elections

Electoral funding rules vary enormously between the Commonwealth and the various states. This is a most serious issue when it comes to the disclosure of donations and expenditure. Efforts at a state level to regulate money in politics have been undermined by the ability of donors to funnel money into party federal election accounts which are not under the jurisdiction of state election funding laws.

While it may be difficult to reach agreement about a standard for caps on expenditure and bans on some types of donations, there are other areas where gaps and loopholes could more easily be closed.

Different jurisdictions vary in terms of how large a donation can be without being disclosed and in terms of what time period is covered by each return. In addition, different jurisdictions vary in terms of the definition of a 'donation', and how much detail must be covered. All of these variations make it hard to compare like with like, and reduce transparency in the system.

Recommendation 1: Efforts are made to reach agreement with state governments to ensure there is uniformity between states and the Commonwealth in regard to donations disclosure thresholds, time periods for disclosures, and the definitions of donations and other incomes that must be disclosed.

2. Detailed disclosure of electoral expenditure

Political parties are now required to provide an overall amount of expenditure by the party in their annual return to the Australian Electoral Commission, yet there

is no requirement for any more detail. If we are serious about having a strong disclosure regime, it is important to know how parties spend their campaign funds. More information will assist the assessment of appropriate levels of expenditure caps.

Recommendation 2: Political parties are required to disclose how much was spent during the election period on each type of expenditure, such as wages, advertising and printing.

3. Ban on donations from certain key industries

There is a pressing need to ban donations from certain industries with a record of using political donations to try and influence policy. In particular the property development, tobacco, alcohol and gambling industries are all dependent on government policy and have funnelled large amounts of money to both political parties.

The Australian Greens and the Australian Labor Party do not take donations from the tobacco industry, but other parties continue to take these donations. These industries are now banned from giving donations for NSW state elections under NSW legislation.

Recommendation 3: Ban donations from the property development, tobacco, alcohol and gambling industries.

Long term solutions

4. Public funding of elections

The Australian Greens support a system of full public funding for elections. The Canadian electoral funding system serves as a good model as it includes:

- a ban on corporate donations and caps individual donations;
- caps on election campaign expenditure;
- reimbursement for election expenditure based on percentage of vote;
- payment of an annual allowance (adjusted for inflation) to political parties for operational and administrative costs.

Recommendation 4: A move towards the full public funding of elections campaigns.

5. A ban on all donations except from individuals and bequests

There is widespread cynicism in the community about the influence of donations over political parties and politicians.

There is a common perception that the payment of donations is a form of corruption, and that corporate donors are buying access to decision makers which is not available to the average person.

The best way to restore trust in the democratic process is to restrict political donations to only those made by individuals and bequests. This would ban businesses and lobby groups from using donations to push an agenda while allowing individuals on the electoral roll to give a limited amount of money.

While there is no doubt that individuals may also have a political agenda, the sense of corruption is much less in the case of individuals. It is also important that there is still room for modest donations from individuals to help fund new parties.

It is also legitimate for parties to gain funds from many individuals giving small amounts of money, and this can be a way to raise money without effectively selling influence.

Recommendation 5: Ban all forms of donations and fundraising payments except those received from individuals on the electoral roll and from bequests.

6. Caps on donations by individuals

While individuals should be permitted to donate to candidates and parties, it is necessary that these donations are restricted to smaller amounts that do not have the danger of corruptly influencing parties or members of Parliament.

Recommendation 6: Restrict donations by individuals to a maximum of \$1000 in any one year to any political party, with donations to different branches of the same political party counting towards a single cap of \$1000.

Recommendation 7: Restrict donations by individuals to a maximum of \$1000 in any one year to candidates from the same political party, with donations to different candidates of the same political party counting towards a single cap of \$1000.

7. Continuous disclosure of donations

At the moment, donations are not revealed to the public until the regular cycle of electoral returns and party annual returns are usually months after the federal election. This time lag dramatically reduces the accountability of parties and candidates. Voters have the right to know about donations before they go to the polls.

This committee has taken a small step in the right direction by recommending that any single donation of over \$100,000 is disclosed within 14 days of receipt. This requirement can be easily avoided by spreading a donation out over a number of occasions, possibly in a very short period of time. This loophole should be immediately closed. Moves should be made now to ensure continuous disclosure of all significant donations.

Recommendation 8: If at any point a donor has given over \$100,000 to a political party or candidate the party or candidate is then required to disclose all donations from that donor within fourteen days of the cumulative donations exceeding \$100,000.

Recommendation 9: All donations from donors whose cumulative donations over the course of a year exceed \$1000 be disclosed.

Recommendation 10: The government provide sufficient funding to the Australian Electoral Commission to develop a system to allow for immediate submission of returns for all donations of \$1000 or more within seven days of the donation being given.

Recommendation 11: Once it is technically feasible, parties and candidates are required to disclose all donations from donors who have donated \$1000 or more in that financial year within fourteen days of the donation being received.

8. Limits on spending during election campaigns

In the fiercely competitive environment of electoral politics, there will always be the temptation for parties and candidates to try to attract greater amounts of donations than their rivals, regardless of what rules are imposed restricting their ability to receive donations.

Restricting the level of expenditure is an effective way to bring fairness to the electoral system and stop the election funding arms race that has engulfed Australian politics.

Recommendation 12: A cap is imposed on election expenditure for each state for political parties and for each House of Representatives electorate for candidates for the three months prior to election day.

Recommendation 13: Penalties are imposed for violation of election expenditure caps, including loss of public funding, large fines, and in extreme cases disqualification as a candidate or as a Member of Parliament.

Senator Lee Rhiannon