

ELECTORAL MATTERS COMMITTEE

Inquiry into voter participation and informal voting

Inquiry into political donations and disclosure

Melbourne — 23 July 2008

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Mr A. Gadiel, chief executive officer, Urban Taskforce Australia.

The CHAIR — Welcome, Mr Gadiel. Your evidence is being taken via speaker phone today. The committee is hearing evidence on two inquiries today. Welcome to the public hearings of the Electoral Matters Committee inquiring into political donations and the inquiry into voter participation and informal voting. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Parliamentary Committees Act 2003, the Defamation Act 2005 and, where applicable, the provisions of reciprocal legislation in other Australian states and territories.

I also wish to advise witnesses that any comments made outside the hearing may not be afforded such privilege. Aaron, have you read the guide to giving evidence at a public hearing pamphlet that the committee provided?

Mr GADIEL — Yes, I have.

The CHAIR — Can you please state your full name and business address.

Mr GADIEL — Sean Aaron Gadiel, Level 12, 32 Martin Place, Sydney, New South Wales.

The CHAIR — Are you attending in a private capacity or representing an organisation?

Mr GADIEL — I am representing the organisation Urban Taskforce Australia.

The CHAIR — What is your position in the organisation?

Mr GADIEL — Chief executive.

The CHAIR — The evidence will be taken down and become public evidence in due course. I would now like you to make a verbal submission and the committee may ask questions of you following your submission.

Mr GADIEL — The Urban Taskforce is made up of Australia's most prominent property developers and equity financiers. Our membership includes key property lawyers, planners and architects as well. The Urban Taskforce very much supports your inquiry. It represents a rare opportunity to help dramatically reshape politics in Australia because, let us be frank, the community is demanding change.

The current system of funding for political parties has served the community well for more than 20 years. However, the community's attitude has changed and the current system has run its course. There is strong public feeling that the political system must not only be free of any actual corruption but it must be free from any perception of financial influence. It is time to end the practice of funding federal, state and local election campaigns by political donations.

As an industry in property development we recognise that political donations do not influence government decision making. However, there is no question that the wider community's confidence in the political system is undermined by the dependence of that system on financial contributions from the private sector. The Urban Taskforce's position is simple, and we have had the same position for more than four years. We advocate a complete national blanket ban on political donations from anyone, corporations or individuals, developers, lawyers, doctors, trade unions, miners, tobacco companies or environmentalists.

However, this kind of change must be accompanied by substantial additional public funding. Taxpayers should meet all the costs of election campaigns. Funding should be allocated to political parties in line with their share of the vote. Only a radical measure like this will ensure that the system is, once and for all, free from any perception of financial influence. I thank the committee for the opportunity to appear today and I am happy to answer your questions.

The CHAIR — Thank you, Aaron. You will receive a copy of the transcript in about a fortnight. Typing errors may be corrected but not matters of substance. Over to questions.

Ms CAMPBELL — Aaron, I think it is pretty difficult to ask you a question, given your submission is so succinct and clear. Point blank: public funding. That is what it amounts to — no variation whatsoever. Correct?

Mr GADIEL — That is right, yes.

Ms CAMPBELL — Thank you.

The CHAIR — It sounds like the Canadian model to me. What do you say to those who might argue against your model by arguing that it is undemocratic?

Mr GADIEL — I am not sure how it could be argued that it is undemocratic. I think what is really important at the moment is that people have confidence in their democracy and their democratic institutions. In the modern day and age it is fantastic that we have such great disclosure on political donations, but it inevitably has led to a perception problem where people do not have confidence in decision making because they are not certain in their own minds that that decision making is at arm's length from the political donations process. I have no doubt that it is at arm's length, but I think it is very important that everyone can have that confidence. Having that confidence strengthens democratic institutions, so if we can move to a system where everyone can see that the way that political parties are funded has got nothing to do with the pattern of government decisions, then our democracy will be strengthened.

The CHAIR — And what about in terms of third parties?

Mr GADIEL — Third-party organisations, I think, should always be free to articulate their concerns and raise issues in the public domain. There cannot be any question that a third party has made a decision that will advance or benefit a donor, because of course they are not able to get into government themselves.

The CHAIR — You do not think their expenditure should be capped at all?

Mr GADIEL — Not unless there is some suggestion that that third party is in fact acting as an auxiliary of a political party. Other jurisdictions such as the United States have detailed laws that govern when an organisation should be regarded as being separate from a political party, because obviously you would not want to ban political donations only to allow a back door where organisations that are effectively auxiliaries of political parties are carrying out activities that would otherwise be forbidden.

The CHAIR — Have you thought through how much public funding is required and a formula to use?

Mr GADIEL — No, we have not gone into that detail because we do not pretend to be experts in the political system. Our view, though, is that the political parties and the scale of the political campaigns we have now should not necessarily be reduced from the current level. In our contact with government and our contact with the political system it seems to us it is important that political parties have independent resourcing that enables them to reach voters directly and communicate their message in the way they want. I do not think that political parties should be made more reliant, for example, on the media to communicate their message, which is what would happen if you cut back the size of the election campaigns they are running at the moment.

My suggestion to your committee and to government generally is that public funding should be based around the sort of money that is currently being spent by political parties, and it should be apportioned through an equitable mechanism based on either parliamentarians in Parliament or votes cast, or a combination of both.

Mr O'BRIEN — Would your proposal not effectively gut the opportunities for newer political parties to get elected? If political parties cannot accept any donations and funding is going to be predicated on past electoral performance, what does that say for the opportunities for new political parties to get established?

Mr GADIEL — I think there is a role for new political parties from time to time if the voters choose them, and your own voters should have that opportunity, which is why there could well be a strong argument to have some component of the funding regime that recognises that even though a party has not had votes in the past it has won votes in a particular election and therefore reimburses it for electoral expenses on that basis.

Mr O'BRIEN — But a party that has never contested an election before, how would that party get established? If I wanted to establish the Michael O'Brien Party tomorrow to run in the 2010 Victorian state election, I have got no members, I am not allowed to accept donations, and under your proposal there would be no public funding for me because my party has never run in any previous ballot. How does that allow me as a start-up political entity to get funded?

Mr GADIEL — You could fund yourself or you could be funded by your members. I do not think there should be any difficulty with a political party recruiting people to join its ranks and, in doing so, striking a membership fee and deriving funds for that purpose.

Mr O'BRIEN — In terms of political donations, can you accept donations from your own members?

Mr GADIEL — I think these are issues of detail that can be worked out in any finalisation of strategy. But as a passing comment I would say that membership fees of an organisation are not donations. If people are choosing to join a political party and each person is paying a membership fee, whether it be \$100 or \$500, I do not necessarily regard that as being the same thing as a donation. I do not think that would create the sort of perception problems that can exist if a private business chooses to participate in the political system by donating a \$10 000 cheque.

Mr O'BRIEN — Would you not have political parties establishing corporate membership categories costing \$10 000?

Mr GADIEL — I would be surprised to see that happen.

The CHAIR — Under this model would the union affiliations of the ALP be prohibited?

Mr GADIEL — I think we should have a system that applies to all organisations equally. I do not think the money that trade unions pay to participate in the political process should be regarded differently from the money that commercial organisations and businesses pay to participate in the political process.

Ms BROAD — Two matters; firstly, have you or Urban Taskforce given any consideration to how a proposed total ban — I think you describe it as a blanket national ban — on any form of political party donations would fare from a legal challenge, given the history of the High Court in relation to, particularly, advertising? Secondly, I note that you have referred to the US system and the amounts which are allowed to be donated to individual candidates and to political parties. I think you commented that you would not want to support directly copying that system, but clearly that differential is not to the advantage of an Independent candidate. We have had a presentation from an Independent candidate in our hearings already, so have you given any thought to what you think would be an acceptable level of donation, both to individual candidates and to political parties, accepting that Independent candidates exist and I think we can safely assume they are going to continue to exist in the future?

Mr GADIEL — Just remind me what the first part of your question was?

Ms BROAD — Have you given any consideration to how a blanket ban would fare under legal challenge, given previous High Court rulings in relation to banning advertising?

Mr GADIEL — Sure. I understand the New South Wales government has commissioned a constitutional law expert to examine this issue. In New South Wales the Premier, Morris Iemma, has publicly expressed a preference for a complete ban on political donations, and a cross-party parliamentary committee conducting an inquiry with similar terms of reference to your own has unanimously recommended that a ban on corporate donations be introduced, plus a ban on all individual donations of \$1000 and up. The way the New South Wales government is dealing with that is it has commissioned a constitutional law expert, and that opinion will be feeding into the commonwealth government's green paper process. I will be interested, like others, to see what constitutional law expert says about the High Court.

I would note that if there is a constitutional prohibition or limitation on a complete ban, you can come very close to that by making public funding entirely conditional upon voluntarily accepting a complete ban on accepting private donations. I would imagine that it would be untenable for certainly the major political parties to operate outside of a public funding regime that worked on that basis. I think either way you address the concerns that we are raising on behalf of private business a perception problem will persist so long as the political system is dependent on private sector funding for its campaigns.

In relation to your second point, I think one way forward on that is the solution that is recommended by your colleagues in the New South Wales Parliament, where Liberal, Labor and National Party MPs supported a complete corporate ban and a capacity for candidates still to accept donations from individuals up to \$1000. I have to say it is not our preferred model, because we do fear the same sorts of issues coming up when people who might be associated with various interests in private business might make a series of donations, which does occur in the US. We think it is less than desirable. If a way can be found to facilitate Independent candidates operating and receiving some share of public money that is set aside for Independent candidates, that would be preferable from our perspective.

The CHAIR — Thank you, Aaron, for your time.

Mr GADIEL — I thank the committee for its interest.

Witness withdrew.