

ELECTORAL MATTERS COMMITTEE

Inquiry into voter participation and informal voting

Inquiry into political donations and disclosure

Melbourne — 23 July 2008

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Ms A. Jones, chief executive officer, Action on Smoking and Health.

The CHAIR — Our next witness will be via teleconference, and I welcome Anne Jones to the public hearings of the Electoral Matters Committee’s inquiry into political donations and disclosure, and its 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 they make outside the hearings may not be afforded such privilege. Have you seen a copy of the ‘Guide to giving evidence at a public hearing’ pamphlet?

Ms JONES — Yes, I have.

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

Ms JONES — Yes. I am Anne Jones. I am the chief executive of Action on Smoking and Health, and the address of our office is 153 Dowling Street, Woolloomooloo, New South Wales.

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

Ms JONES — I am representing an organisation.

The CHAIR — Can you please state the organisation and your position in that organisation.

Ms JONES — Yes. The organisation is referred to as ASH Australia. It stands for Action on Smoking and Health. It is a health promotion charity. My position is chief executive officer and I have been the chief executive officer since 1994.

The CHAIR — Your evidence will be taken down and become public evidence in due course. I now invite you to make an oral submission. The committee will ask you questions at the end of your submission. You will receive a copy of the transcript in about a fortnight. Typing errors may be corrected but not matters of substance. Thank you.

Ms JONES — Thank you for this opportunity. We are a health group based in Sydney. We are funded by and founded by the Cancer Council and the National Heart Foundation and our sole purpose is to try to improve government policy to reduce tobacco diseases, disability and death caused by tobacco products. We did give some similar evidence that we are giving today to a previous inquiry by the Victorian Parliament into the conduct of the 2006 election, and we appreciate the opportunity to raise once again our concerns about political donations. I should say, too, that we have raised these concerns in a similar inquiry in New South Wales. There has been now a report submitted with about 48 recommendations, and there is currently a federal inquiry into the election where issues of political donations are being raised. So that is the context.

I should say a little bit more about our interest in this issue. Initially we were very concerned about the political donations of tobacco companies. We believed these donations were having an undue influence on government decisions. The donations often are used to put pressure on government to open doors. Although initially concerned about the tobacco industry, after a number years we realised that you cannot just stop at one industry group because money does play a very controversial role in Australian politics. The last estimate I have seen is that there are \$200 million a year that is sort of washing around in political donations around the country, and that while several other countries overseas have improved their transparency and accountability and the regulation of donations, that this is long overdue in Australia.

In terms of a bit more detail about the problems before I talk about what we think are some of the solutions, we believe that donations, particularly large donations, to parties are damaging public confidence in government because they are seen to buy access to politicians that ordinary community groups cannot afford. Therefore we end up with an imbalance in our democratic system that often leads to decisions that are skewed towards, say, the wealthy interest groups or the groups with greater political clout. Often that is in strong contrast to the evidence that has been put to government for why a particular health decision is being recommended. That evidence is often supported by government health authorities and yet we have many examples of when good policy decisions that have community support, that have the support of all the health experts and the authorities, are rejected or watered down in favour of what the powerful industry group wants.

We are certainly very concerned about the state of political donations in Australia at the moment and we think there are at least 10 areas of reform. The first one would be measures we believe would increase transparency about the source of those donations, and that would include prompt and transparent reports, at least quarterly, and before elections as opposed to after. We believe with the internet and Web sites now it is a lot easier for this information to be made accessible so that voters have an opportunity to know who they are voting for and who are the backers of those various people. We also believe that funding disclosures should be accompanied by a report from an accredited auditor. There should be some sort of scrutiny made of these donations.

The second recommendation we have is, of course, limits on donations and one of these recommendations has made it into the New South Wales recent report on political donations. They are suggesting — and we support this — that you would limit donations from individuals to around about \$1000, but that there would also be a total ban on donations from organisations and corporations, and that total ban would also extend to foreign or transnational entities.

We also support caps on total electoral spending by all parties and candidates. That is a recommendation that is in the New South Wales report. We would like to see an independent committee that would monitor all government advertising campaigns; obviously not to delay them, but to ensure that those funds are being spent for purposes of public education not political gain.

We are also concerned that local government needs to have similar transparency requirements. We think public funding may be suitable for councils as well, but conditional on compliance with caps on private funding and transparent disclosure prior to elections. We certainly do not have that at the moment in New South Wales.

In terms of greater policing of the Electoral Act, or acts, we would like to see adequate funding to enforce these laws, increased penalties for breaches and political donations no longer being tax deductible. I believe that has been passed by the federal government; that was one of our recommendations.

Lastly, we are seeing some action nationally. We know that there has been the announcement of a green paper for further discussion. We have not seen that yet but perhaps this inquiry can make some recommendations about what we would want to see in terms of leadership from the federal government. The federal government has made some announcements about political donations and the reform of those. We believe the green paper is going to be a beginning of that process, but we would like to ensure that any national action, as well as state action, does as much as it can to involve not just politicians — because after all it is politicians making decisions about funds that they can receive — but a wide range of legal experts, academics and community representatives should all be allowed sufficient time for proper consideration and comprehensive debate about all the reform options. That completes, I think, the key points I wanted to make. I am happy to answer any questions.

The CHAIR — Thank you.

Mr O'BRIEN — In your submission you suggest that donations have led to political influence which have:

... resulted in delays and/or dumbing down of evidence-based policies aimed at improving community health.

Is there any evidence that that has happened or is this your supposition: that donations have resulted in changes to policies governments would have otherwise adopted?

Ms JONES — Yes, I can give you a few examples. There are a couple of infamous ones, I suppose. One has been here in New South Wales, with a very long delay to the final phasing out of smoking in pubs and clubs. At a time when we had a very thorough public consultation process and all of the recommendations were strongly in favour of total bans in indoor areas in pubs and clubs, that decision was delayed for several years, and even now we have a compromise position which is what the hotel industry wanted, as opposed to what was the advice from all of the health authorities based on the harm caused by second-hand smoke. That has been quite well documented and even published in academic journals about the process and all of the influence from the commercial entities that were engaged, including the tobacco industry and the whole gambling industry as well, which has continued to give millions of dollars to the New South Wales government.

That is one example. There is actually another one happening right now as we speak. We have just again had a very long process of consultation, which has been very open and transparent, in relation to putting tobacco displays out

of sight in shops. It has only been in the news today. What has been controversial has been that the tobacco companies have been given access to cabinet members at a time when there has been no access granted to the 40 health groups which wanted the opportunity to counter the misleading claims that are currently being made to cabinet members about why they should not support the recommendations that have been made by the minister for cancer, which are supported by all of the health groups and 90 per cent of the community surveyed.

Here is another example of commercial entities bringing to bear a lot of influence to get around the public consultation process, and even though it is not illegal for them to do that, what we believe is unethical is that they put forward false claims that are not supported by evidence, are not supported by anything that they can put forward, and yet we are possibly about to see a compromise decision because of this last-minute influence that has been brought to bear by industry representatives who have given large donations to government members.

Mr O'BRIEN — Anne, can I just follow up on that, because my understanding is that the Labor Party is not accepting donations from tobacco companies. If that is the case, given you referred to these tobacco companies having access to cabinet members, and, sadly, as a Liberal member I know there are no Liberal cabinet members anywhere in the country, does that not actually counter your argument? Because if what you suggest is happening, which is that these tobacco companies are receiving access, surely whatever the basis for that is, they are not receiving access to cabinet based on donations?

Ms JONES — No, what I am saying is that first of all the tobacco industry has always used third parties anyway. For years it has given donations to the pubs and the clubs, and the tobacco retailers who have formed into their own groups have been reimbursed, funded, given bonuses and so on, to promote tobacco products. So they are a third-party entity that is very successful as well at gaining access to government.

I am not trying to say it is illegal for them to gain access, but what I am saying is that you have an open process and then at the last minute those commercial entities that are also donors, whether they be third parties or direct donors, get access while we are refused access and they put forward information to try and overturn recommendations that are about to go before cabinet that is not based on evidence. That is the area that concerns us enormously. We could talk for hours here about the various examples, but, if I could stick to the principles, we think political donations are undermining the democratic process.

We think if people want access to politicians, that is fine, but if they are gaining access because they happen to give \$1 million plus to that particular party through the various loopholes that we currently have in our system then we are extremely concerned about that because the government is not making decisions that are based on evidence but based on the influence that those entities can bring to bear because of their financial support.

Mr O'BRIEN — Is it not possible that governments can receive advice from all sorts of sectors? You are very strong in your submission and your oral evidence in talking about evidence-based decisions. I am sure that industry groups that have a different point of view to ASH would say that they have evidence for their point of view. Is it not the role of government to listen to all sources of advice and then make a decision, and if the decision happens to be not 100 per cent your organisation's way and presumably not 100 per cent the other industry organisation's way, is that not part of the role of government to balance competing interests and competing views?

Ms JONES — I believe it is the role of government and, in the end, they are going to make a political decision, but what if that political decision is totally contrary to the advice of their own health ministry, contrary to their own health advisers, contrary to the public support for that particular policy, contrary to what 40 major health groups are asking them to do, and then to top it off what if the arguments that are being used to reject the health advice are spurious arguments that are not based on or supported by evidence? That is what concerns us.

When a decision is made, yes, it has to be a balanced decision. Donors are basically making false claims but they happen to be also biased towards that political party and so they are getting a very good hearing. That is what concerns us. We are quite happy for people to get through to speak to politicians, but when there is a large amount of money involved then I think that is causing a lot of distrust in the community and a lot of concern that decisions by government are not being based on the public interest. They are not being made based on evidence but they are being made based on who can bring the most political pressure to bear because they happen to be a massive donor to that political party.

Ms BROAD — Could I ask you to elaborate on your recommendation in relation to the introduction of public funding for local government?

Ms JONES — I am not too keen to stray from the principles in this area because when we did our research into what we thought was a much better system we relied quite a bit on a lot of the academic experts in this area who have obviously looked at a very complicated system. What I would prefer to say is rather than getting into the details I think local government is obviously an important arm of government and the same sorts of principles should apply in terms of transparency and ways of allowing them to have access to public funds so that they are not reliant upon having donations from developers and other sources that are probably not appropriate as far as the community is concerned. I think that is where we would like to see some reforms to try and bring local government into line with state government in terms of the same sorts of reforms. I am sorry I am not giving more detail on that because it is more the principles that I feel comfortable sticking with rather than the detail.

The CHAIR — That will obviously be difficult to implement because in Victoria certainly 90 per cent of councils do not have political party endorsements and so I guess there would need to be a threshold there.

Ms JONES — You have a different situation which I am unaware of and I think this is obviously something for your expert committee to be determining, but we have a different situation in other jurisdictions.

The CHAIR — In recommendation 5 you state that an independent committee ought to be set up to monitor all government advertising campaigns and ensure that public funds so spent are for the purposes of public education, not political gain. Can you elaborate on the independent committee?

Ms JONES — There were some suggestions that we have heard about. It may be a role for the Auditor-General, but it is more about being at arms-length from politicians making that decision. It is more about ensuring that when large amounts of money are spent that they are for public education and I think maybe it is an opportunity. There could be different mechanisms for doing this, but I think the key is that it is independent, so either the Auditor-General or perhaps we may even be better placed with a particular committee that would be made up of various experts from government and from organisations like the Auditor-General. I am not recommending an exact formula here because I think that does need some further examination and discussion.

The CHAIR — In terms of your recommendation 4, you say that tighter controls over ‘independent’ campaign spending by the supporters of political parties and candidates need to be instituted. I guess you are talking about spending caps?

Ms JONES — Yes, spending caps. This again is where it is quite useful to look at the reforms that have already taken place in other countries, and we have included some examples in our submission. But since we became interested in what other countries were doing, there have been some very good reports produced by some of the parliamentary libraries that have looked in more detail. For example, the New South Wales parliamentary library has a report that has examined far more closely than we were able the various models and how those reforms have been implemented. There are no easy answers to what we want to have happen, but I think that the principles are obviously about greater transparency and caps, I think, to try and bring some good sense to the current situation.

The CHAIR — That is all for the questions. Thank you very much, Anne, for your time.

Ms JONES — Thank you.

Witness withdrew.