

ELECTORAL MATTERS COMMITTEE

Electoral Matters Subcommittee

Inquiry into voter participation and informal voting

Inquiry into political donations and disclosure

Melbourne — 24 July 2008

Members

Ms C. Broad

Mr R. Scott

Mr A. Somyurek

Chair: Mr A. Somyurek

Staff

Executive Officer: Mr M. Roberts

Research Officer: Ms N. Wray

Witness

Ms D. Moor, manager, policy and programs, Public Interest Advocacy Centre.

The CHAIR — Welcome to the public hearings of the Electoral Matters Committee’s inquiry into political donations and disclosure, 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 they make outside the hearing may not be afforded such privilege. Have you read the ‘Giving evidence at a public hearing’ pamphlet that the committee should have provided to you?

Ms MOOR — Yes, I have.

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

Ms MOOR — My name is Deidre Moor. I am the manager, policy and programs at the Public Interest Advocacy Centre. We are located at 299 Elizabeth Street, Sydney.

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

Ms MOOR — I am representing the public interest advocate, my employer.

The CHAIR — And your position in the organisation?

Ms MOOR — I am the manager, policy and programs.

The CHAIR — Your evidence will be taken down and become public evidence in due course. You may now proceed to make your submission.

Ms MOOR — Thank you for the opportunity to appear before the committee and for making the teleconference facility available.

The Public Interest Advocacy Centre is an independent, non-profit law and policy organisation that identifies public interest issues and works cooperatively with others to advocate for individuals and groups affected. PIAC congratulates the Victorian Parliament for holding an inquiry into political donations and disclosure. Both New South Wales and the commonwealth have also held inquiries into this issue in 2008 and it is certainly attracting considerable media coverage, particularly here in New South Wales. PIAC believes major reform is needed and has welcomed the attention the issue is receiving in announcements by various governments of intentions to make changes in this regard.

In summary PIAC believes only individual citizens should be able to make financial contributions to political parties, that those donations should be capped, that electoral spending should be capped, that the financial and other privileges of incumbents in government should be better regulated to minimise politically partisan views, that public funding should be provided to parties and candidates at elections and that this funding should be tied to compliance with the electoral law. If current arrangements are assessed against these principles, it is clear that reform of both public and private political financing in electoral processes is needed. Spiralling costs of political activity, reliance on large corporate donations, the perception that you can purchase access to political representatives, relaxing of disclosure provisions all make for unequal and unaccountable political playing fields. A lack of transparency and the perception of situations of conflict of interest or corrupt practice create distrust in the community and a loss of confidence in our democratic system.

The CHAIR — Thank you for that, Deidre.

Mr SCOTT — I notice that one of your recommendations was the establishment of an independent body to make law regarding electoral matters.

Ms MOOR — Yes.

Mr SCOTT — I just want to clarify that. Was that in terms of some sort of equivalent to a law reform agency that will make recommendations to Parliament or are you proposing a delegation of parliamentary authority?

Ms MOOR — A delegation of authority was what we had in mind.

Mr SCOTT — So that the body would be set up outside of Parliament which would have actual law-making powers?

Ms MOOR — Not necessarily law-making powers, but the issue that we are concerned about is that there is a tendency for parliaments or governments to make electoral law that favours incumbency basically, and we have taken up the suggestion of Brendan McCaffrey from ANU that if that was removed from the Parliament, you would be more likely to get an equal situation.

Ms BROAD — I would like to ask you to elaborate on some of the recommendations in your submission, particularly in relation to, I guess, essentially disclosure recommendations. In your recommendation 1, you refer to applying the requirements for listed companies under the Corporations Law. I wanted to ask you what impact you think that would have which is different from the current commonwealth disclosure requirements in both a practical sense and the objectives that you think should be achieved?

Ms MOOR — That recommendation relates to the financial and other situations of the political parties themselves, so we are not referring just to disclosure of donations. We are picking up on the idea that it is difficult for citizens to find out a lot of information about the financial affairs of political parties. For instance, in the lead-up to the last election Stephen Mayne, who is a shareholder activist, commented in one of the newspapers about how difficult it is to find out the accumulated assets of political parties and how that sort of wealth makes a big difference to what you can and cannot do. Again, that is another aspect that would improve the transparency of the political system and create better financial equivalency between the major parties and the minor parties and the Independents. That is the principle behind that recommendation.

Ms BROAD — Given that political parties publish financial statements, is it fair to interpret what you have just said as being particularly directed at the matter of assets?

Ms MOOR — Yes.

Ms BROAD — I notice that you have another recommendation that goes to the matter of gifts. I have certainly had some experience in relation to definitional issues that can arise in relation to whether funds are considered to be donations, gifts or other income. Can you elaborate on your recommendation of changing the definition of gifts?

Ms MOOR — Again, the principle that underlies it is the principle of transparency. If money is being received by the political party it should be apparent what the funds are. Let me explain: the words that describe the funds should not be used to in any way disguise them. For instance, there has been reporting of very large amounts paid to attend small gatherings with political leaders. If, for instance, that was paid by a corporation, it would be disclosed differently than if it was a donation. What we are looking for is for all such amounts of money to be caught in the disclosure regulations.

Ms BROAD — That is clear. Thank you for that.

Mr SCOTT — There is a discussion about the use of associated entities and third parties. You touch upon the difficulties involved in including third parties in political financing regulation. Would you include, as they do in some other jurisdictions, third parties — say, anyone engaged in the political process who is lobbying or using advertising to lobby for particular points of view within the polity — or only third parties directly tied to political parties?

Ms MOOR — That is a tricky one, and I do not think I am prepared to say one way or the other. I think it is a complicated issue that needs careful consideration. One of the issues that was of concern to PIAC was the importance of issue advocacy organisations, I guess, such as PIAC but also such as some of the major charities. If you are involved in an electoral process to influence voters, it is a bit different than if you are an associated entity or a third party more directly related to a political party. The point that we were making is that there needs to be a distinction between those categories of third parties and that in particular those who are lobbying should not be caught up in the same way as those entities that are set up basically to support one political party or another.

Mr SCOTT — Have you considered the complexity of making those decisions because in the United States and other jurisdictions political action committees and others have often proved quite difficult for regulators

to deal with exactly those sorts of issues. I would agree that it is a very difficult issue. So you are not willing to say broadly where you would draw the line?

Ms MOOR — I think the issue that needs to be considered is that information needs to be available. It is not so much where you draw the line as the ‘apparentness’ of the line, if you like.

Mr SCOTT — But, for instance, to raise a point, you have advocated limits on donations to political parties. Would that also apply to third parties as we are discussing them here?

Ms MOOR — Yes, and in fact what PIAC believes is that only individual citizens should be able to make donations.

Mr SCOTT — Let me put a situation to you: a group of refugees within Australia lobbying for refugee rights therefore could not raise funds for political activity to lobby on their own behalf and run advertising related to elections or political campaigns where their own interests were directly affected.

Ms MOOR — I was not recommending that groups like that should not be able to raise funds on their own behalf, but I would say that groups like that should not be able to make donations to political parties.

Mr SCOTT — But what if they were running advertising in the lead-up to an election campaign to advocate on behalf of their own interests where different political parties were taking different points of view on the refugee issue?

Ms MOOR — That certainly is not what we were intending to capture on that.

Mr SCOTT — Thank you.

The CHAIR — There is a view that if parties spent less time fundraising they could concentrate more on their core activities, such as issue identification of policy, policy development. What is your view on that?

Ms MOOR — I think the fundraising is driven by the ever-increasing amounts that are spent during electoral campaigns, and that is behind a recommendation that expenditure on campaigns be limited. So therefore I would agree with you.

The CHAIR — With respect to the spending limits, do you have a particular formula that your organisation has come up with?

Ms MOOR — No, we have not had the resources to look into that in detail, although I think there were some academics who were doing work on it.

The CHAIR — How enforceable would compliance be with respect to the spending limits?

Ms MOOR — One of the issues is that with any law there are often found to be ways of interpreting and getting around it. One of the recommendations from the Democratic Audit of Australia on this was that it be something like the taxation law, where a provision exists that if your intention is to avoid it, then that is also ruled out.

The CHAIR — It makes sense.

Ms MOOR — Yes.

The CHAIR — Are you advocating for public funding to be increased?

Ms MOOR — Yes.

The CHAIR — To what rate?

Ms MOOR — We have not made a specific recommendation on a rate. I think it is something that needs to be a matter of wide discussion. If the recommendation that donations only be permitted from individuals is accepted, then you would expect that the rate of public funding would need to increase, and that is why the limit on electoral expenditure becomes so important.

The CHAIR — On the issue of candidates donating to their campaign, what is your view on that?

Ms MOOR — That is not something that we have considered particularly, but we recommend that there be a fairly low limit on donations from individuals. They would be caught up by that.

The CHAIR — Thank you.

Ms BROAD — Could I ask you to elaborate on your recommendation 14? The committee also has a reference in relation to voter participation.

Ms MOOR — Yes.

Ms BROAD — And I note that you have made a recommendation there that a proportion of public funding should be tied to an agreement to spend some of those funds on broader social objectives. That is a little bit different to some of the submissions that have come to the committee. Can you just talk about that a bit?

Ms MOOR — What we had in mind was basically civic education and that of participation of people in democracy. Some of the work that we have done has shown that there is an enormous ignorance in the community about politics and political processes and government. That would be something that political parties and those funded by the taxpayer could contribute to.

Ms BROAD — Just to follow up on that, in relation to civic education about how our electoral and governance systems work would you not see that as primarily the role of the electoral bodies — the electoral commissions — to undertake that type of public education?

Ms MOOR — Certainly they have a major role in that, but the more widely these issues are discussed and explained the better informed the community will be.

Ms BROAD — Thanks for that.

The CHAIR — With respect to campaign spending caps, would you view a cap based on a per annum rate or based on the election period itself?

Ms MOOR — I do not really have a view on that. I think it is something that needs further investigation and certainly wider consultation. If it is based on an electoral period, in some jurisdictions that is a problem because there are not fixed-term parliaments and so possibly annual amounts would get around that, but it is not something that we have yet done enough work on to advocate for a particular model.

The CHAIR — Thank you very much.

Witness withdrew.