

**Submission
No 1**

**THE FINAL REPORT OF THE EXPERT PANEL –
POLITICAL DONATIONS AND THE GOVERNMENT’S
RESPONSE**

Organisation: Public Service Association of NSW
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Date Received: 7/10/2015

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In reply please quote: A15/0772: DS:mb

Mr Jai Rowell, MP
Chair of the Joint Standing
Committee on Electoral Matters
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Rowell

Re: Inquiry into the Political Donations Final Report and the Government's Response

The Public Service Association of NSW thanks the Committee into Electoral Matters for inviting us to comment as part of its Inquiry into the Political Donations Final Report and Government's Response. The Association recently provided a submission to your Joint Standing Committee on the Inquiry into the 2015 State Election and we attach a copy of our letter as we feel the issues raised in it are also relevant to this Inquiry. It is our view that Recommendation 31 should be rejected as unnecessary. In addition, it is the view of the Association that Recommendation 32(c), which relates to the aggregation of spending by multiple third-party groups, should not be supported as it makes it more difficult for the community to oppose unpopular policy.

The Association hopes that any legislative changes brought on by the government as a result of this review should also consider the issues around Third Party Campaigners as raised in our submission to the Inquiry into the 2015 State Election. We hope that the Joint Standing Committee will endorse our view that recommendations from both reviews be considered together by the government. Our concern is that dealing with the two recommendations separately has the potential to lead to inconsistencies in the legislation.

Recommendation 31 seeks to halve the spending cap for Third Party Campaigners. No entity at the last State Election reached the proposed lower limit and as a result it is seen as a relevant adjustment. However the question needs to be asked that if the spending limit was not reached, what the advantage in reducing the cap is exactly. In contrast the disadvantage is an unknown, with one possible negative being an increase in micro parties on the Legislative Council ballot paper as entities seek to get around the lower limit.

Recommendation 32 attempts to regulate the formation of 'associated entities' to ensure these are not used by parties or candidates to exceed the spending caps in place currently in the legislation. However section 32(c) deals with Third Party Campaigners acting in concert to exceed the spending limit cap. This is a very different issue and is one that deeply concerns the Association.

The Report makes it clear that section 32(c) is specifically designed to reintroduce a restriction on groups acting in concert on a single issue and replace provisions struck down in 2012 as unconstitutional (Final Report – Volume 1, pg 116). We are deeply concerned that the Report appears to support the view that the Court ruling of 2012 be circumvented. This Court made it clear that public policy was something everyone had a right to comment on. The idea that during an election campaign this right could be restricted in a way it wasn't at other times, conflicts with the ideals of a modern and democratic society.

Organisations such as Unions and Industry groups exist to represent the views and interests of their members. Both groups consist of separate Third Party Campaigners which will, from time to time, share common interests. The effect of this provision is to disadvantage these established groups from representing their members' interests specifically during the period of time when their voices will be most listened to by the public and when their message is most likely to bring about the desired change.

We note the view contained in the Report that political entities and candidates have a right to be heard during an election campaign and not be overshadowed by other groups. We also note the concerns of the former Chair of the Joint Standing Committee, Robert Furolo MP, concerning the need to ensure that regulation does not encourage Third Party Campaigners to 'game' the electoral laws by making them too restrictive (Final Report – Volume 1, pg 110). This restriction, apart from being undemocratic in our view, may also lead to an increase in third party campaigns as groups attempt to circumvent this restriction. The effect will be more divergent voices in the election campaign period and lead to the very situation this provision hoped to avoid.

The Association again thanks the Committee for the invitation to provide a submission to this Inquiry and hopes that our concerns will be addressed in your report.

Yours sincerely



Steve Turner
Acting General Secretary
Attach.

October 2015

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Mr Jai Rowell MP
Chair of the Joint Standing
Committee on Electoral Matters
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Rowell

The Public Service Association of NSW thanks the Committee into Electoral matters for inviting us to comment as part of its Inquiry into the 2015 NSW State Election. We acknowledge and support the views contained within the submission of Unions NSW however as a registered Third-party Campaigner in this election, we identified a number of issues we wish to bring to the attention of the committee separately to that document.

We note that the legislative requirements for Third-party Campaigners remain a recent addition to the electoral system. It is our view that the legislation is still immature and has led to a situation where groups such as the PSA were disadvantaged in our ability to represent our members' interests.

The current legislation (Election Funding, Expenditure and Disclosures Act 1981) requires specific campaign funds to be maintained by Third-party Campaigners. This causes issues for groups such as the PSA as they are not organisations structured primarily for campaigning purposes. Ongoing organisations structure staffing payments and operating budgets based on long term goals and their systems are not compatible with legislation designed to reflect the task focus of election campaigning.

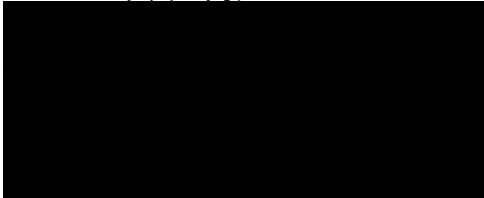
The above issue is further complicated by our experience dealing with the Electoral Commission during the campaign. With the focus of the Commission, understandably, being on the expenditure and requirements for parties and candidates we found it difficult to obtain timely and authoritative advice on our inquiries. The lack of real time advice from the Commission proved difficult considering the requirement to pay all declared expenditure out of the campaign account. The regulation as it pertains to staffing costs of ongoing employees, are prohibitive and unworkable.

It is the suggestion of the Association that Third-party Campaigners be spared the need for a separate account, to be maintained for payment purposes, where they can demonstrate they are not primarily a campaigning organisation. If an exemption to the requirements for separate campaign accounts is not acceptable then we would seek to have the Electoral Commission provided with additional funding to allow Third-party Campaigners access to dedicated and timely responses to its inquiries.

The need of Third-party Campaigners to comply with the regulatory requirements of the Election Funding, Expenditure and Disclosures Act 1981 incurs costs to the organisation that can be out of all proportion to the cost of their actual campaigning. Although the costs of compliance are excluded for parties and candidates under the electoral funding provisions their access to public funding helps offset this cost. As there is no similar public funding for Third-party Campaigners, compliance creates an unnatural barrier for many and restricts their ability to exercise their implied right to freedom of speech during a state election campaign. Third-party Campaigners should have their compliance costs met from public funding.

The Association again thanks the Committee for the invitation to provide a submission to this Inquiry and hopes that our concerns will be addressed by your final report on Electoral matters.

Yours sincerely,



Steve Turner
ACTING GENERAL SECRETARY

21 August 2015