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Murray Evans

FINANCIAL REPORTING BY POLITICAL PARTIES

Interim report from the Joint Standing Committee on Electoral Matters
on the Inquiry into the Conduct of
the 1993 Election and Matters Related Thereto

June 1994

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June 1994

TERMS OF REFERENCE

That the Joint Standing Committee on Electoral Matters inquire into and report on all aspects of the conduct of the 1993 federal election and matters related thereto.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

37TH PARLIAMENT

MEMBERS

Chairman	Senator D Foreman
Deputy Chairman	Mr D Connolly MP
	Senator C Chamarette
	Senator C Evans ¹
	Senator M Lees ²
	Senator N Minchin ³
	Senator J Tierney ⁴
	Mr M Cobb MP
	Mr A Griffin MP
	Mr D Melham MP
	Mr S Smith MP ⁵
	Mr W Swan MP

STAFF

Secretary	Mr D Nairn
Research Officer	Mr R. Chafer
Executive Assistant	Mrs H Fyfe

¹ Replaced Senator G Maguire (discharged 27 May 1993)

² Replaced Senator S Spindler (discharged 19 August 1993) who had replaced Senator K Sowada (discharged 27 May 1993)

³ Replaced Senator R Kemp (discharged 19 August 1993)

⁴ Appointed 28 October 1993

⁵ Appointed 17 November 1993

CONTENTS

Terms of Reference	iii
Membership of the Committee	iv
Abbreviations	v
Summary of Recommendations	vi
Background	1
Annual Returns	3
Disclosure Thresholds	5
Returns from Donors	6
AEC Compliance Audits	6
Use of Trust Funds	8
Signing of Correspondence	8
Public Funding	9

APPENDICES

- A. Resolution of Appointment
- B. Submissions received (Funding and Disclosure)
- C. Public Hearings and Witnesses

ABBREVIATIONS

- AEC - Australian Electoral Commission
- ALP - Australian Labor Party

SUMMARY OF RECOMMENDATIONS

Recommendation 1: that Division 5A of the *Commonwealth Electoral Act 1918* and associated regulations be amended as necessary so that annual returns by registered political parties list a total amount of expenditure, rather than individual transactions within that total. (p4)

Recommendation 2: that section 314AB of the *Commonwealth Electoral Act 1918* be amended so that annual returns from registered political parties are required to be lodged within 16 weeks after the end of the relevant financial year. (p4)

Recommendation 3: that the *Commonwealth Electoral Act 1918* be amended as necessary so that \$500 is set as the threshold for disclosure of individual amounts received and paid by, on or behalf of political parties. (p5)

Recommendation 4: that section 305A of the *Commonwealth Electoral Act 1918* be amended so that donors to registered political parties or State branches thereof are not required to lodge a return with the AEC. (p6)

Recommendation 5: that procedures for AEC compliance audits be amended so that State agents of registered political parties are required to be present at local audits, and are responsible for presenting to the AEC such records for audit as are required. (p7)

Recommendation 6: that Part XX (Election Funding and Financial Disclosure) of the *Commonwealth Electoral Act 1918* be amended to clearly require disclosure of income received by registered political parties from any trust fund or similar fund or account, where such

income is above the disclosable amounts set out in the Act. (p8)

Recommendation 7: that Part XX of the *Commonwealth Electoral Act 1918* be amended as necessary to enable parties to designate officers to sign correspondence on behalf of agents. (p9)

Recommendation 8: that section 294 of the *Commonwealth Electoral Act 1918* be amended so that the same amount of public funding is payable for a Senate vote as for a House of Representatives vote. (p9)

Recommendation 9: that Part XX of the *Commonwealth Electoral Act 1918* be amended to provide that political parties registered on a national basis receive public funding for elections directly to their federal or national offices, via national agents. Where political parties registered on a State basis do not notify the AEC that they wish to receive public funding on a national basis, those parties shall continue to receive public funding through their State agents. (p10)

THE 1993 FEDERAL ELECTION: INTERIM REPORT

(FINANCIAL REPORTING BY POLITICAL PARTIES)

Background

1. Before the 1993 federal election, Part XX (Election Funding and Financial Disclosure) of the *Commonwealth Electoral Act 1918* was amended by the *Political Broadcasts and Political Disclosures Act 1991* to provide for comprehensive disclosure of income and consequent expenditure of political parties and candidates. The changes were prompted by a June 1989 report of the Committee in the 35th Parliament, *Who Pays the Piper Calls the Tune*, which considered the effectiveness of the disclosure provisions of the Act in the context of an examination of the costs of political advertising.
2. The Committee made several recommendations to improve public knowledge of election funding and expenditure, including enhancing the power of the Australian Electoral Commission (AEC) to conduct spot audits of political parties, various recommendations to improve disclosure by "third parties" (persons or organisations other than registered political parties and candidates who incur expenditure for political purposes during an election period), and, most notably, recommending that the *Commonwealth Electoral Act 1918* be amended so as to provide for the full disclosure of all forms of income and expenditure by registered political parties¹.
3. The Act was subsequently amended to require the agent of each State/Territory branch of each registered political party to furnish a return to the AEC within 20 weeks after the end of each financial year - that is, by 17 November. The new provisions came into effect for the 1992/93 financial year.

¹*Who Pays the Piper Calls the Tune* p77

4. Annual returns must show all amounts received by or on behalf of the party, all expenditure incurred by or on behalf of the party, and details of outstanding debts as at 30 June. Details of persons or organisations who paid, received or are owed \$1500 or more must be provided. In calculating whether a person has reached the \$1500 threshold, amounts less than \$100 paid during the course of a fund-raising event, payments by the party of less than \$100 and salary related payments need not be counted. Under section 320 of the *Commonwealth Electoral Act 1918* the AEC is required to make these returns available for public inspection at the end of January in the year following receipt.

5. When lodging their 1992/93 returns with the AEC, the political parties noted the unintended administrative burden imposed by the new provisions², and the Labor, Liberal and National Parties all submitted in similar terms to the 1993 election Inquiry³. As such, the Committee resolved in May 1994 to take further evidence on the funding and disclosure provisions. Letters were written to those who referred to election funding and disclosure in their initial evidence, and further submissions were called for in an advertisement placed in the major daily newspaper in each State and Territory on Saturday 7 May 1994.

6. A further nine submissions were received, including submissions from the Labor, Liberal and National Parties, and the AEC. Public hearings were held on 6 and 7 June 1994 at Parliament House⁴.

7. In their evidence, the political parties convinced the Committee that there exists an urgent need to simplify the reporting requirements of the funding and disclosure provisions, and the Committee believes that this can be done without affecting the integrity of the legislation. The purpose of the disclosure provisions

²Evidence (AEC) pS1557

³Evidence pS0558, pS0685, pS0706, ppS0718-719, ppS0912-913, ppS0969-971, pp243-247, pp284-286, pp504-506, pp527-528 and pp621-623

⁴Evidence ppS1531-1580, pS1634 and pp731-840

is to serve the public interest by providing details of the funding sources of political parties (and political activities by third parties during election campaigns). It is not the intention of the disclosure provisions that unnecessary bureaucracy be created and that political parties be effectively "defunded" - but that is a consequence of the current Act.

8. The Committee is therefore tabling this brief interim report to make recommendations to alleviate the worst of the bureaucratic requirements associated with the annual returns. Given that the political parties must shortly commence preparation of their 1993/94 returns, **the Committee urges the government to make a statement on its intent regarding the recommendations in this report as soon as possible.** It is the Committee's hope that legislation consistent with the recommendations will be introduced forthwith, and that such legislation will take effect as of 1 July 1994.

9. It should be noted that the recommendations in this report are not comprehensive; the Committee's report on the conduct of the 1993 election will look more fully at the proposals received in relation to funding and disclosure. Also, both this interim report and the full 1993 election report precede a report to Parliament by the AEC, which will address the operation of the funding and disclosure provisions in relation to the 1993 election. The AEC's report is likely to be tabled in September.

Annual Returns

10. Section 314AB of the *Commonwealth Electoral Act 1918* states that an annual return shall set out total amounts received, paid and outstanding by a registered political party. Regulations further require that these total amounts, including expenditure details, *must be itemised in minute detail.* The Committee believes that the accountability goals of the legislation would be equally well met if total

expenditure only was reported⁵, rather than, in the words of the Liberal Party,

requiring political parties and all the entities of which they comprise, particularly the hundreds of volunteer branch based office-bearers, to provide down to the last individual cent of all components of that expenditure...the current requirements...lead to Parties spending thousands of hours and tens of thousands of dollars worth of time reporting meaningless detail which is of no public benefit⁶.

11. The power of the AEC to conduct compliance audits to ensure that parties' reported expenditure is accurate will not be affected by the Committee's recommendation.

Recommendation 1: that Division 5A of the *Commonwealth Electoral Act 1918* and associated regulations be amended as necessary so that annual returns by registered political parties list a total amount of expenditure, rather than individual transactions within that total.

12. The Committee also believes that the reporting time for annual returns should be reduced to 16 weeks after the end of the financial year, to ensure that returns are current.

Recommendation 2: that section 314AB of the *Commonwealth Electoral Act 1918* be amended so that annual returns from registered political parties are required to be lodged within 16 weeks after the end of the relevant financial year.

⁵Evidence (ALP, Liberal Party, National Party) pS1533, pS1543, pS1579, pp733-734 and p786

⁶Evidence pS1543

Disclosure Thresholds

13. The funding and disclosure provisions require party units to provide details of all amounts totalling \$1500 or more from an entity in a year - even amounts as low as one cent which, when accumulated across a political party, combine to reach \$1500. To require organisations staffed largely by part-time volunteers to provide this extraordinary level of detail adds little to the integrity of the system; clearly, a more sensible approach would be to establish a reasonable threshold below which amounts do not have to be reported or aggregated for the purpose of determining total income. To this end, the Liberal Party and the ALP submitted that \$1500 should be set as the threshold to apply at which individual transactions, rather than an aggregated amount from the one source, must be disclosed. Receipts below \$1500 would not be required to be separately recorded or taken into account in aggregation, and this threshold would apply across all areas including fundraising events, branch activities and donations⁷.

14. The Committee agrees that a reasonable threshold should be set for disclosure of individual transactions. However the Committee also believes that the threshold should be set at \$500, rather than \$1500, to avoid opening loopholes for non-disclosure of substantial amounts⁸. A reporting threshold of \$500 will still greatly reduce the bureaucracy associated with the Act.

Recommendation 3: that the Commonwealth Electoral Act 1918 be amended as necessary so that \$500 is set as the threshold for disclosure of individual amounts received and paid by, on or behalf of political parties.

⁷Evidence pS1533, pS1535, ppS1543-1545, p734, pp736-740, pp744-745, pp786-787, pp793-795, p802 and pp808-810

⁸Evidence (C.Morris & B.Edgman, AEC) pS1551, pp822-824 and pp827-833

Returns From Donors

15. Section 305A of the *Commonwealth Electoral Act 1918* provides that where a person donates a total of \$4500 or more to a registered political party, that person must lodge a return within 15 weeks after polling day. The Liberal Party submitted that this requirement should be abolished, in that it duplicates information required to be provided by each registered political party under section 314AC of the Act⁹.

16. The Committee has concluded that the requirement for donations to be disclosed is adequately met by section 314AC. It is sufficient for registered political parties to disclose donations by individuals or companies, and therefore it is not necessary for the donor to make a disclosure as well. The Committee also believes that the onus for meeting the disclosure requirements should properly rest with the political parties; donors should not suffer an administrative burden for seeking to contribute to the political process.

Recommendation 4: that section 305A of the *Commonwealth Electoral Act 1918* be amended so that donors to registered political parties or State branches thereof are not required to lodge a return with the AEC.

AEC Compliance Audits

17. The *Political Broadcasts and Political Disclosures Act 1991* amended the *Commonwealth Electoral Act 1918* to give authorised officers of the AEC the power, for the purpose of finding out whether a prescribed person or the agent of a registered political party has complied with the disclosure requirements of the Act, to serve a notice requiring production of documents or to give evidence. This provides the AEC with the power to subject political parties and third parties to

⁹Evidence pS1546, p788, p794 and pp809-810

random audits to ensure compliance with the Act¹⁰.

18. In its evidence, the ALP requested some changes to procedures for AEC compliance audits¹¹. One of these proposed changes (others will be examined in the Committee's full report) was that the State agent of a registered political party ought to present such records as are required by the Compliance Investigators:

we argue that the State agent should be present, not just at the local audit, but the State agent should actually present the records required by the AEC, to deliberately protect local branch members, local branch secretaries, people whose only interest is on many occasions organising a local booth roster, to protect them from the difficulties, the inconvenience and in some cases even potential harassment and embarrassment caused by a local audit by the AEC¹².

19. The Committee believes that this proposal is sensible, and recommends accordingly.

Recommendation 5: that procedures for AEC compliance audits be amended so that State agents of registered political parties are required to be present at local audits, and are responsible for presenting to the AEC such records for audit as are required.

¹⁰Evidence (AEC) pS1567

¹¹Evidence pS1535 and pp736-737

¹²Evidence p737

Use of Trust Funds

20. The issue of whether or not trust funds can be used by political parties to avoid disclosure was raised during the Inquiry¹³. The ALP submitted that

currently it appears that it is not necessary to disclose donations to a trust fund where the trust fund income is then consumed by a political party while the donation resides untouched¹⁴.

21. Supporting evidence was received from the AEC and its Compliance Investigators. While it was not proven that such a loophole definitely exists in the legislation, the Committee believes that the uncertainty should be removed by affirming that trust fund income is to be disclosed.

Recommendation 6: that Part XX (Election Funding and Financial Disclosure) of the *Commonwealth Electoral Act 1918* be amended to clearly require disclosure of income received by registered political parties from any trust fund or similar fund or account, where such income is above the disclosable amounts set out in the Act.

Signing of Correspondence

22. The *Commonwealth Electoral Act 1918* provides that a person who has furnished a return may request the AEC to make an amendment to the return. The AEC has received legal advice to the effect that this provision means that only the person who furnished a return can request amendments to be made to it - which causes some difficulties when the person who furnished the return no longer holds

¹³Evidence (ALP, C.Morris & B.Edgman, AEC, Liberal Party) pS1534, pS1551, pS1570, pp735-736, pp743-744, pp748-749, p757, p764, p779, pp789-791, pp797-799 and pp820-822

¹⁴Evidence pS1534

the position as agent or is unavailable¹⁵. The Committee agrees that this situation is unsatisfactory, and supports a Liberal Party proposal that designated party officials be entitled to sign correspondence on behalf of party agents¹⁶.

Recommendation 7: that Part XX of the Commonwealth Electoral Act 1918 be amended as necessary to enable parties to designate officers to sign correspondence on behalf of agents.

Public Funding

23. At present, a Senate vote attracts half the amount of public funding of a House of Representatives vote, where elections for the two Houses are held together. The rates payable at the 1993 election were 100.787 cents for a formal House of Representatives first preference vote, and 50.393 cents for a formal Senate first preference vote.

24. The Liberal Party submitted, and the ALP agreed, that as much effort is required to gain a Senate vote as a House of Representatives vote and that the distinction between the two should therefore be abolished¹⁷. The Committee agrees and recommends accordingly.

Recommendation 8: that section 294 of the Commonwealth Electoral Act 1918 be amended so that the same amount of public funding is payable for a Senate vote as for a House of Representatives vote.

¹⁵Evidence (C.Morris & B.Edgman, AEC) pS1552 and pS1569

¹⁶Evidence (Liberal Party) pS1547

¹⁷Evidence pS1547, pp754-755 and p789

25. A question then arises as to whether this objective should be met by increasing the level of Senate public funding, or redistributing the existing pool of public funding. The Committee will examine this and other issues related to public funding in its full report on the 1993 election.

26. Also, the ALP proposed that public funding for elections should be provided directly to federal or national offices of registered political parties, via those parties' national agents. The ALP argued that such a reform would remove

the need for paper work and the time consuming effort of apportioning national expenses on a state by state basis. It also establishes the principle that funding provided by the national parliament for national elections should go direct to the national offices of parties¹⁸.

27. Provided that political parties which do not have a national structure still have the option of receiving their public funding on an appropriate basis, this is a reasonable suggestion and the Committee recommends accordingly.

Recommendation 9: that Part XX of the Commonwealth Electoral Act 1918 be amended to provide that political parties registered on a national basis receive public funding for elections directly to their federal or national offices, via national agents. Where political parties registered on a State basis do not notify the AEC that they wish to receive public funding on a national basis, those parties shall continue to receive public funding through their State agents.

28. Senator Chamarette dissents from this recommendation.

¹⁸Evidence pS1534

D. J. Foreman.

DOMINIC FOREMAN
Chairman

June 1994

APPENDIX A
RESOLUTION OF APPOINTMENT

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Extract from the VOTES AND PROCEEDINGS

No. 7 dated Thursday, 13 May 1993

27 **ELECTORAL MATTERS—PROPOSED JOINT STANDING COMMITTEE**

Mr Beazley (Leader of the House), pursuant to notice, moved—

- (1) That a Joint Standing Committee on Electoral Matters be appointed to inquire into and report on such matters relating to electoral laws and practices and their administration as may be referred to it by either House of the Parliament or a Minister.
- (2) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group or groups or independent Senator or independent Senators.
- (3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.
- (4) That the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time.
- (5) That the committee elect a Government member as its chairman.
- (6) That the committee elect a deputy chairman who shall act as chairman of the committee at any time when the chairman is not present at a meeting of the committee and at any time when the chairman and deputy chairman are not present at a meeting of the committee the members present shall elect another member to act as chairman at that meeting.
- (7) In the event of an equality of voting, the chairman, or the deputy chairman when acting as chairman, shall have a casting vote.
- (8) That 4 members of the committee constitute a quorum of the committee.
- (9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.
- (10) That the committee appoint the chairman of each subcommittee who shall have a casting vote only and at any time when the chairman of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chairman at that meeting.
- (11) That the quorum of a subcommittee be a majority of the members of that subcommittee.

- (12) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.
 - (13) That the committee or any subcommittee have power to send for persons, papers and records.
 - (14) That the committee or any subcommittee have power to move from place to place.
 - (15) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.
 - (16) That the committee have leave to report from time to time.
 - (17) That the committee or any subcommittee have power to consider and make use of:
 - (a) submissions lodged with the Clerk of the Senate in response to public advertisements placed in accordance with the resolution of the Senate of 26 November 1981 relating to a proposed Joint Select Committee on the Electoral System, and
 - (b) the evidence and records of the Joint Committees on Electoral Reform and Electoral Matters appointed during previous Parliaments.
 - (18) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.
 - (19) That a message be sent to the Senate acquainting it of this resolution and requesting that it concur and take action accordingly.
- Question—put and passed.

L. M. Barlin
 L M BARLIN
 Clerk of the House

THE SENATE

Extract from JOURNALS OF THE SENATE

No.37..... dated 28 October 1993

ELECTORAL MATTERS—JOINT STANDING COMMITTEE—RESOLUTION OF APPOINTMENT

The following message from the House of Representatives was reported:

Message No. 142

MR PRESIDENT,

The House of Representatives, having considered message No. 98 of the Senate, acquaints the Senate that the House of Representatives has disagreed to the Senate's variation of the resolution of appointment of the *Joint Standing Committee on Electoral Matters* and has made the following modification in place thereof:

Paragraph (2), omit the paragraph, substitute the following paragraph:

"(2) That the committee consist of 12 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the *Opposition Whip or Whips* or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group or groups or independent Senator or independent Senators."

The House of Representatives desires the reconsideration by the Senate of the resolution in respect of the modification made by the House of Representatives in place of the Senate variation.

STEPHEN MARTIN

Speaker

House of Representatives,
Canberra, 27 October 1993

The Minister for Veterans' Affairs (Senator Faulkner), by leave, moved—

- (1) That the Senate concurs with the resolution transmitted to the Senate by message no. 142 of the House of Representatives relating to amendments to the resolution of appointment of the *Joint Standing Committee on Electoral Matters*.
- (2) That this resolution be communicated to the House of Representatives by message.

Debate ensued.

Question put and passed.

APPENDIX B

SUBMISSIONS RECEIVED (FUNDING AND DISCLOSURE)

The following submissions to the Committee's Inquiry into the conduct of the 1993 election were received in response to an advertisement placed in the major daily newspaper in each State and Territory on Saturday 9 May 1994, calling for further submissions on election funding and financial disclosure.

Sub No	From
-----------	------

- | | |
|-----|---|
| 143 | Australian Labor Party
CANBERRA ACT |
| 144 | Kristine Klugman MA OAM
via TARAGO NSW |
| 145 | National Party of Australia - (WA)
WEST PERTH WA |
| 146 | Robert Tait
The Greens (WA)
PERTH WA |
| 147 | The Liberal Party of Australia
CANBERRA ACT |
| 148 | Chris Morris & Brad Edgman
CANBERRA ACT |
| 149 | Australian Electoral Commission
CANBERRA ACT |
| 150 | National Party of Australia
CANBERRA ACT |
| 152 | Mr A W J Smith
GERALDTON WA |

APPENDIX C
PUBLIC HEARINGS AND WITNESSES

CANBERRA - 6 JUNE 1994

Australian Labor Party

- Mr Gary Gray

Mr Chris Morris

Mr Brad Edgman

CANBERRA - 7 JUNE 1994

Liberal Party of Australia

- Mr Lynton Crosby

Australian Electoral Commission

- Dr Robin Bell

- Mr Brian Cox

- Mr Paul Dacey

- Mrs Elizabeth Gladwin