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Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reference: Electoral funding and disclosure

TUESDAY, 18 SEPTEMBER 2001

CANBERRA

BY AUTHORITY OF THE PARLIAMENT

JOINT COMMITTEE ON ELECTORAL MATTERS

Tuesday, 18 September 2001

Members: Mr Pyne (*Chair*), Senators Bartlett, Faulkner, Ferris, Mason and Murray and Mr Danby, Mr Jull, Mr Melham, and Mr St Clair

Senators and members in attendance: Senators Faulkner, Mason and Murray and Mr Melham, Mr Pyne and Mr St. Clair

Terms of reference for the inquiry:

The Minister has referred the Australian Electoral Commission's *Funding and Disclosure Report, Election 98* to the Committee for consideration (see Attachment A). The Minister has asked the Committee to examine the recommendations contained therein together with those recommendations of the AEC's 1996 *Funding and Disclosure Report* still to be addressed, and 'report back on the desirability of their incorporation into the existing legislation'.

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Committee met at 12.32 p.m.

CHAIR—I declare open this hearing of the inquiry by the Joint Standing Committee on Electoral Matters into electoral funding and disclosure. Today the committee will be hearing from the Liberal Party and the Australian Labor Party. In their submissions to the committee both parties have expressed their support for a transparent funding and disclosure system and both parties have indicated to the committee their priorities for reform. A key priority for the Liberal Party is reform of the Electoral Act to ensure that the true source of donations made through a professional fundraising organisation is revealed. For the Labor Party, the priority is to ensure that donors to trusts and pledge funds are declared. The committee also expects to explore with both parties statements made by the Australian Electoral Commission in its second submission to this inquiry, including the admission that it is unable to effectively administer the scheme because of legal loopholes.

The hearings of this committee are public and are open to all, and a *Hansard* transcript of the proceedings is being produced. The transcript will be available in hard copy from the committee secretariat, or via the Parliament House Internet home page.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, its members and others necessary for the discharge of functions of the parliament without obstruction and without fear of persecution. Any act by any person which may operate to the disadvantage of a witness on account of evidence given by him or her before the committee is treated as a breach of privilege.

While the committee prefers to hear all evidence in public, the committee may accede to requests to take evidence in camera and will record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Senate. The Senate also has the power to order production and/or publication of such evidence. I should add that any decision regarding publication of in camera evidence or confidential submissions would not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

CROSBY, Mr Lynton Keith, Federal Director, Liberal Party of Australia**EDWARDS, Mr Bruce Allen, Manager Parliamentary and Policy, Liberal Party of Australia**

CHAIR—I welcome Mr Lynton Crosby and Mr Bruce Edwards from the Liberal Party of Australia to today's public hearing. The evidence that you give at the public hearing today is considered to be part of the proceedings of parliament. Accordingly, I advise that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. We have received your submission No. 10 which has been authorised for publication. You might indicate whether there are any corrections or amendments that you wish to make to it, or any changes or additions that you might like to make after this meeting. You might also indicate whether you would like to make an opening statement, and after that we will proceed to questions. Would you like to make an opening statement?

Mr Crosby—Yes. Given that some time has elapsed between when we made our submission and today's hearing, it would be useful to comment on some aspects of our submission and make some observations on the submissions of the AEC and the Australian Labor Party.

The Liberal Party is committed to appropriate transparency and to meeting its obligations under the Electoral Act. However, in considering issues such as disclosure and public funding, it is important that we all keep firmly in mind that political parties—of whichever type—are entities formed by volunteers coming together in support of principles and beliefs that they hold. While it is important to ensure that the Electoral Act and the provisions within it are rigorous and achieve certain important objectives in terms of transparency and accountability, we need to keep that in mind. It is my observation that, in the context of the AEC's most recent submission, there seems to be an assumption that every person involved in any political party—whichever party that might be—is somehow intent on doing the wrong thing. There is therefore a line of thought within that submission which proposes an extent of detail and application of the law that would place an unfair burden on the many thousands of decent volunteer members of the Liberal Party of Australia, the National Party, the Labor Party or the Australian Democrats. In considering the whole issue of disclosure and accountability, it is important to maintain a sense of balance. We already have amongst the most rigorous electoral laws in the world. However, it is impossible to guarantee that every problem will always be addressed. You have to keep in mind a sense of balance when looking at disclosure and accountability.

I am concerned that there are some recommendations, particularly in the AEC's previous reports in relation to the 1996 and 1998 federal elections, and in its most recent submission, which really seem to overlook the fact that there are central, professional organisations such as the national secretariat of the Labor Party and the federal secretariat of the Liberal Party, but out in the community there are literally thousands of branches and hundreds of thousands of volunteers who give their time willingly with no intent other than to demonstrate their commitment to a particular viewpoint. We do not want a system to develop where decent folk, acting in good faith, are suddenly turned into criminals through simple errors or omissions on their part. In particular, we believe that the AEC is becoming somewhat less than user-friendly in its application of the act. It is very important that the AEC understands that we are dealing

with organisations which, other than at their very top levels, are not professional organisations in the true sense of the word, but which are groups of committed volunteers and individuals.

My second observation is that we need a system that encourages people to make political donations. Active and vibrant political parties are important to the democratic process. Some of the recommendations by the Electoral Commission about additional obligations on donors worry me to the extent that they impose burdens and penalties on people who genuinely want to contribute to the political process. It is important that we have a system that is as user-friendly as possible, consistent with appropriate disclosure and accountability.

I could go through at length the various elements of our earlier submission, but I will not do that. I would like, though, to make some observations, firstly, just in very broad terms, about the AEC's submission to the committee, and I would be more than happy to expand on them. I suspect that it would not be feasible for me to comment in every way today, even with answers to questions, so that we will seek an opportunity to provide, perhaps in writing, a follow-up submission to expand on some of the points that we have in relation particularly to the AEC's submission.

The best thing for me to do is to indicate to you that we oppose recommendations 1, 2, 3, 4, 5, 6, 7 and 8 of the AEC's submission. We are happy to expand as to the reasons why. We have serious question marks about others that we also oppose, but I will not go through all of them. The desire of the AEC is to invoke their recommendations. I think the AEC's whole submission has been poorly put together. I think they have taken an obsessive approach to the point of not understanding how political parties operate and of assuming guilt on the part of political parties in all circumstances. I would be happy to expand on that in answers to any questions that you have.

The third issue that I would like to deal with that we raised in our submission but which has again been highlighted—and I would like to come back to the AEC in a moment, as well—is the issue of the transparency of donations made to the Australian Labor Party through Markson Sparks, which is a fund raising and promotions company that has now, based on media reports alone, contributed in excess of \$2.3 million to the Labor Party. The most recent example was a function organised in conjunction with the appearance in Australia of Bill Clinton. Yet we have had no disclosure in the appropriate disclosure period of any contributions made by attendees to functions organised by Markson Sparks on behalf of the Labor Party. The Labor Party have previously given a commitment to disclose fully these amounts, and they have failed to do so. As recently as July, they gave a commitment to disclose the donors through Markson Sparks to the Labor Party. You would be aware, Mr Chair, that it is not a case of disclosing a subsequent return for a subsequent financial year; the obligation is on a political party to amend its returns when it becomes clear that disclosure has not been effected.

In relation to the McKell Foundation there has been no disclosure, despite a commitment for there to be so. As recently as August, the *Sydney Morning Herald* reported that those involved in the McKell Foundation said that they had 101 other things to do, and therefore that was their excuse for not ensuring appropriate transparency. It has always been accepted by the Liberal Party that the organisation of events, even when they involve a professional fundraising organisation, require full disclosure, so any contributions by attendees at such events have been fully disclosed by the Liberal Party. It is our contention that that is what the law currently

requires. It appears the Labor Party believe this is a loophole that they can exploit, but either way we believe there should be a full disclosure in that regard.

It is made all the more interesting, given that we are talking of amounts in excess of \$2.3 million, that the organisation concerned, Markson Sparks, clearly have not contributed their own money. They are a \$100 company, they have twice been subject to applications to wind them up, they are therefore an entity that has some question mark over their viability and operation. I think it is very important that this particular means of fundraising—using events as a vehicle to try to mask donations—which we have seen developed very extensively within the Labor Party in recent years, is properly dealt with. We would totally support any legislative change that is required, given that this is a practice that we have already seen applied with regard to such events.

The final point I would make concerns the Australian Electoral Commission: I think that the time is fast approaching when the operation of the Electoral Act and the role of the AEC need to be questioned and reconsidered. The AEC on the one hand has an obligation to ensure proper disclosure and accountability in accordance with the act; it also has an obligation to conduct elections. It is my view that consideration should be given to the splitting of the functions of the AEC so that you have one entity that conducts elections and deals with issues of the legitimacy of the electoral roll—and that, of course, has been the subject of a previous report by this committee—but administering the Electoral Act and issues such as disclosure and accountability should be separate functions. I think there can be conflict between the two, and it is also a difficult environment for the AEC in practical terms if on the one hand it is trying to conduct an election, maintain electoral rolls and have all the logistics under control and, on the other, police the application of the Electoral Act. I think serious consideration ought to be given to that, and as part of that process consideration needs to be given to the external processes of monitoring the performance of the Electoral Commission; some form of ongoing audit of the maintenance of the roll and some form of ongoing audit of its operations—external and independent, but public and clear. What we see consistently from officers of the AEC is a focus on political parties and their performance, but I believe—notwithstanding the work of this committee and others—there needs to be greater accountability on the part of the AEC. With those remarks I am happy to respond to questions from the committee.

CHAIR—Thank you, Mr Crosby. You have raised a lot of issues. One I would like to pick up on is this question about Mr Max Markson and Markson Sparks. Is it your understanding that the Labor Party would have hired Mr Markson to conduct fundraising for them, and that he would get a cut of the fundraising that was being done, channel it through his \$100 shelf company and then pay that to the Labor Party? Would that include everything that was raised at a particular function? If somebody bid at the auction perhaps \$10,000 or \$20,000 to buy a Donald Bradman bat or they might buy a book of raffle tickets at \$100 a ticket—and they might buy 10 books—that becomes quite a serious amount of money. As well as the ticket price, would that all go through Markson Sparks and then to the Labor Party? Is that your understanding of the scam?

Mr Crosby—That is my understanding. Mr Markson is quite a flamboyant figure who is keen on his own promotion and recently wrote a book in which he indicated that he had organised fundraisers for the Labor Party. I think that the first of the type was a very large function, a Gough Whitlam tribute dinner, which allegedly raised very significant amounts. In

discussions with people who attended that function and similar such functions, a number of them have indicated—although for obvious reasons they are reluctant to have their names used—that they have been advised that they could bid at auctions and all those contributions that potentially are well above the market value of an item would be nondisclosable because of the way the process has been conducted.

CHAIR—So if you wanted to give \$25,000 to the Labor Party it would be much smarter, if you did not want anyone to know about it, just to turn up to a Markson Sparks organised function and bid for something, as long as there was another bidder you could line up beforehand, saying to them, ‘Don’t worry, because I am going to end up buying it. I am going out at \$25,000; you go out at \$24,000.’ You could give your donations to the Labor Party through a \$25,000 donation at an auction.

Mr Crosby—Potentially what you have described, based on apparent practice, would be the case. All political parties should be encouraging people to contribute to political parties and encouraging them to do so in a transparent way, so that the issue of disclosure becomes less of a concern to people. Donations to political parties should be an accepted practice of the democratic process. There is some confusion, I have to admit, having read the media reports on the weekend with regard to the most recent Markson Sparks event involving a function with Clinton. There is a suggestion that part of the proceeds from that event also went to a charity. Donations to that charity are tax-deductible, so there are issues of whether there is an attempt on the one hand to avoid disclosure but on the other hand to provide vehicles through which people may be able to make tax-deductible contributions to political parties by their attendance at an event the part proceeds of which go to a charity, which is a deserving thing, but which gives them a vehicle for tax-deductibility because the charity has tax-deductible status.

CHAIR—Are you suggesting that it is possible even to make a donation to the Liberal Party on the back of the Crippled Children’s Association or the Anti-Cancer Foundation?

Mr Crosby—I would not want to name an organisation, but on the basis of the practice that was outlined in the media on the weekend in relation to the Clinton event, that is unclear. Therefore, the practice that we have always accepted—that is, that attendance and participation in such functions shall be properly disclosed where it goes beyond the threshold of \$1,500, and as I understand it according to media reports the starting price was \$7,000 to get into this event—is that, even if someone else is organising such an event for us, if the threshold is achieved it is properly disclosable. We have not said, ‘We’ll just take a cheque from the fundraiser and we won’t ask or in any way endeavour to disclose who was the original source of funds.’ The AEC spends a lot of time in its submission talking about true original sources of funds, but here we have a situation where clearly the true original source of funds, however you define that, is being masked by a practice.

CHAIR—In the *Sydney Morning Herald* of 12 July a spokesman for the Labor Party—I think it was Eric Roozendaal—and one of our committee members claimed that the Labor Party would come clean with the names of the people who had been involved in fundraising functions involving Markson Sparks. They did not indicate whether that would be retrospective or just for future ones. Is it your understanding that under the Electoral Act that means in effect that some donations might not need to be disclosed until February 2002 or maybe even 2003, depending

on the purpose for which they were given, and therefore it is a meaningless statement since it will not happen before the federal election?

Mr Crosby—That is exactly right. If any contribution, whenever it occurred, is not incorporated until we had a return that covered a period like the current period—that is, the financial year from 2001 to 2002, which is the year when the election is presumably going to be held—that is not subject to disclosure until 2003. One has to question it. There was obfuscation when Markson Sparks and the McKell Foundation practices were exposed. There was a commitment that there would be disclosure. Now we are being told that they are very busy right now and they either do not have time to disclose or they just have not got around to it. But what that means in practice is that there is no disclosure in the relevant financial year or for the relevant financial year. As at this morning, there has been no amended return lodged with the Australian Electoral Commission, which is the usual practice. If you establish that an error or correction has been required, the usual practice is for there to be an amended return immediately lodged with the Electoral Commission. As for the recent million dollar Clinton dinner, if it were to be disclosed, the contributors are not required to be reported until 2003, but we have all those events and practices before that time which should be properly disclosed now. As you say, it presumably will not be before 2003 that this disclosure occurs. The inference on the part of the Labor Party that they were going to be open and transparent at best is delayed transparency.

CHAIR—At best it is saying that they are going to maintain the intent of the law and it is no more than that, which one would hope that all political parties would do as a matter of course.

Senator FAULKNER—Is any corporate fundraiser working on behalf of a political party required to put in a funding and disclosure return?

Mr Crosby—Our practice has been to accept that, where a fundraiser is organising an event on behalf of the party, they are in effect an agent of the party and, therefore, the applicability of disclosure laws should apply as if they were the party. Therefore, the source of the funds that are paid in relation to any event or activity organised by a professional fundraiser should be disclosed. For example, if the Liberal Party engages an entity to conduct an event on its behalf and if the price of entry to that event is \$1,500 or more—or if there is a contribution for an auction item at such an event of \$1,500 or more—that should be disclosed by the party as the source. That is the practice and, to the best of my knowledge, that has always been applied by the Liberal Party.

Senator FAULKNER—Why then did you use the terminology of corporate fundraisers being a loophole in the law?

Mr Crosby—I was drawing attention to the fact that the failure of the Labor Party to properly disclose the sources of its funds via functions organised by Markson Sparks has been largely dismissed by the Labor Party as simply, ‘They are just organising an event for us.’ They are implying that they are a corporate fundraiser and, therefore, ‘They are the only people we have to disclose, the fact that we got the money from them.’ Surely, if the intent of the law and, in our case, the practice of the law is to expose all those who have given contributions of \$1,500 or more, those people who have given \$1,500 or more should be disclosed.

For example, if you read comments by Mr Markson, he has indicated that he has been organising events for the Labor Party. People who go to those events do not go to something they think is other than a Labor Party fundraiser. Therefore, the Labor Party is the very direct beneficiary of the event. The Labor Party has, in effect, just used Markson as an agent for them. It is the Labor Party that should ensure complete disclosure of the contributions of all those who attended.

We saw a situation on the weekend where a Mr Roozendaal suggested that he did not know any of the 44 people who attended the Bill Clinton fundraiser that netted \$1 million for the Labor Party. It seems to me inconceivable that he could not remember just one of those 44 names. Yet they all clearly gave amounts in excess of \$1,500 and, therefore, there was a direct benefit, contribution, donation—call it what you want—to the Labor Party that should accordingly have been disclosed. We are not talking about amounts of \$500 or less that do not in aggregate achieve the threshold. We are talking about very large sums of money that have gone to an entity that is organising an event on behalf of the Labor Party. If you are going to have true transparency, which I have noted you have been a strong advocate of over a period of time, then you have got to have true transparency.

Senator FAULKNER—Exactly.

Mr Crosby—You cannot say that it is okay for a million dollars to be channelled through Markson Sparks and disclosure avoided.

Senator FAULKNER—I agree with you. What you do not seem to understand—and, fair enough, you do not understand or do not know about it—is that there is currently a loophole in the electoral law of this land. This loophole means that a corporate fundraiser—like the example you give of Markson Sparks—is not considered an associate entity of the Labor Party in relation to this sort of fundraising activity you are talking about. Hence, it is not obligated to put in a return and hence those particular amounts of money are not disclosed. But you do not understand that that is the case, which is fair enough.

Mr Crosby—I think you are conveniently fudging the issue, if I can say so.

Senator FAULKNER—I am asking whether you understand that that is the situation. There is no obligation on the part of the AEC for Markson Sparks in this case or the Australian Labor Party New South Wales branch on their behalf in this case to lodge an electoral funding return.

Mr Crosby—We do not accept that.

Senator FAULKNER—So the AEC is wrong?

Mr Crosby—I am saying to you that we do not accept it. I am saying to you that it is some loophole if the Labor Party can get in excess of \$2.3 million and not disclose. It is more than that, Senator Faulkner. Your party has indicated that it would honour the intent of the law and disclose but it has not yet done so. It said it would at the time to try to take the media attention and focus away from it, but it has failed to do so.

Senator FAULKNER—So you do recall that a public statement was made by the Labor Party—I think it was made by me and Mr Roozendaal, as mentioned in the question that the chairman asked—to the effect that the spirit of the act would be honoured here because, of course, there was not a legislative requirement for these funds to be disclosed. You do recall that statement being made. I think you have referred to it a couple of times.

Mr Crosby—I recall the statement being made that you would ensure full disclosure and transparency, but—

Senator FAULKNER—In accordance with the provisions of the act, even though the act does not apply.

Mr Crosby—I note the failure of the Labor Party, which beats its chest on this issue from time to time, to disclose in either a timely or an effective way.

Senator FAULKNER—With respect, Mr Crosby, aren't the normal obligations of disclosure basically as you outlined them: in relation to financial year returns and returns that are provided after each electoral event? Isn't that the way our funding and disclosure provisions of the Commonwealth Electoral Act work?

Mr Crosby—No. There is now no requirement to lodge after each electoral event. You lodge a financial year return; that is it. However, leaving aside the Clinton event—which raised \$1 million for the Labor Party recently and for which there has been no transparency—there is still \$1.3 million in events for financial years that have already been reported and lodged with the Electoral Commission. They covered financial years that were already subject to disclosure and public reporting. There has been no amendment to rectify that and to say, 'Oh well, we'll do it all in one hit in a subsequent financial year.' If you are going to meet the spirit of the legislation, then surely you should meet the spirit of the legislation.

Senator FAULKNER—Exactly. So it will be provided when the return is due.

Mr Crosby—The legislation requires that if there is a financial year already covered, for example, 1999-2000, which has already been reported at the end of January this year, then any amendment to cover that financial year should be reported now.

Senator FAULKNER—You talked yourself, in your own evidence, about errors or breaches. This is not an error or a breach. It is not even an obligation. It is a voluntary return.

Mr Crosby—This is a clear scam. For someone who has beat his chest about Greenfields so many times, for you to—

Senator FAULKNER—We will get to Greenfields in a minute.

Mr Crosby—For you to come here and suggest that, 'Oh well, it's a loophole. So what?' I think is quite wrong.

Senator FAULKNER—I have never said, ‘It’s a loophole. So what?’ I have always said it is a loophole and it ought to be closed. It ought to be closed as quickly as possible, and it ought to get a much higher priority than your ‘dash for cash’ bill, your fix of public funding. Every senator around this table knows that I have consistently argued that. I want to close that loophole and close it as soon as we can get a bill before the parliament. So do not put words into my mouth about that. I want to close it. I accept it is a loophole. The only thing we as a principled political party can do before the loophole is closed is to say, ‘We will honour and observe the provisions of the legislation on a voluntary basis even though we are not required to do so.’ That is the position of the Labor Party, just for your explanation.

Mr Crosby—Can I comment on that, Mr Chairman?

Senator FAULKNER—My next question is this: is the Greenfields Foundation still a charitable trust? You talked about charities.

CHAIR—Senator Faulkner, Mr Crosby can comment on your last statement before he answers your question.

Senator FAULKNER—My question is: is the Greenfields Foundation a charitable trust?

CHAIR—He can answer that question, but he can also comment in any way he likes on what you said beforehand, if he chooses to do so.

Mr Crosby—I am not an expert on the Greenfields Foundation but my understanding is that its status has not changed. If it had the status of a charitable trust, then that remains so. Can I just add—

Senator FAULKNER—So you have got the hide to come in here and talk about donations to charities with your—

CHAIR—Senator Faulkner, please. Mr Crosby can answer the question now—

Mr Crosby—You were very sensitive about Markson Sparks, Senator Faulkner.

CHAIR—All Mr Crosby is saying, Senator Faulkner, is: if you accept that something is a loophole, why do you take advantage of it in the Labor Party? If you think it should be closed, why take advantage of it?

Senator FAULKNER—We are not taking advantage of it. We are going to disclose those moneys in accordance with the—

Mr Crosby—One day.

Senator FAULKNER—provisions of the Electoral Act, when they are required to be disclosed.

CHAIR—His point is that you take advantage of them even though you say it is wrong.

Senator FAULKNER—We are not taking advantage of them. We are going to disclose the moneys in accordance with the provisions of the act. In other words, when the return is due it will be lodged. What is wrong with that? Mr Crosby is not going to front up. Neither is any other political party—

CHAIR—I think what is wrong with it is that on 12 July you said you were going to do it today.

Senator FAULKNER—I never said that we were going to do it today.

CHAIR—On 12 July you said you were going to. ‘Labor pledged to come clean on donations’ was the headline.

Senator FAULKNER—Yes.

CHAIR—That is what the story was all about. You are not coming clean on donations at all.

Senator FAULKNER—I never said I was going to do it today or any other day. I said we were going to act in accordance with the provisions of the Electoral Act in every sense, even though we were not obligated to do so. So, when the funding return is due, you will get a return on those moneys that are raised on the Labor Party’s behalf by Markson Sparks, even though the Labor Party does not have to do it. That is what was said. Not only was it said; it will be honoured absolutely, in totality, whether you like it or not.

CHAIR—Senator Murray has questions too.

Mr Crosby—In 2003, Senator Faulkner.

Senator FAULKNER—He may have.

Mr Crosby—Not for disclosures in relation to 1998-99 or 1999-2000, they should be covered in the relevant financial year.

Senator FAULKNER—It will be done, Mr Crosby, in accordance with the Electoral Act.

Mr Crosby—They shouldn’t be delayed until after the federal election—

Senator FAULKNER—as will all the donations during the same time period.

Mr Crosby—as a deliberate attempt to avoid disclosure.

CHAIR—Senator Faulkner, there is no point in shouting over the witness.

Senator FAULKNER—I am not shouting; I am just making it clear to Mr Crosby that—

Mr Crosby—I think he is shouting, Mr Chairman.

CHAIR—He is shouting.

Senator FAULKNER—as will the donations made to the Liberal Party be disclosed during the same time frame by the Liberal Party with your financial year return and then made public. No-one is complaining about that.

Mr Crosby—Any contribution made to the Liberal Party, even involving an event using a professional fundraiser or some such organisation, has been fully disclosed in the relevant year and reported publicly—not held over until 2003 when \$2.3 million or more worth of donations from sources they are obviously very embarrassed about can be hidden from the public eye.

Senator FAULKNER—Are you aware of the—

CHAIR—Senator Faulkner, Senator Murray wishes to have a turn now. We have only got until quarter past one. We can come back to you if we have time. We can always get the Liberal Party back again if they are prepared to come again.

Senator FAULKNER—I would like to ask a couple of questions about the Greenfields Foundation if I may.

CHAIR—You will get your chance, but I think Senator Murray should have an opportunity—

Senator FAULKNER—I want to get my chance before Mr Crosby leaves the table.

Senator MURRAY—I will be brief.

Senator FAULKNER—Thank you.

Senator MURRAY—I have just three matters in view of the pressure of time. The first is that it is reasonable to assume that these two weeks could be the last two sitting weeks of the parliamentary year. From a quick glance, you have indicated in your submission that you support 18 recommendations and one or two with qualifications. Do you think any of those 18 should be urgently passed, should be dealt with in these two weeks before the federal election?

Mr Crosby—I am taking this question a bit on the run. A number of the recommendations we clearly support—like candidates and Senate groups being allowed to appoint agents up till 6 o'clock on polling eve—are relatively minor and relatively noncontroversial. I do not think there is a sense of urgency. Given that I was a party agent in Queensland and on one occasion I received a personal cheque for \$1.8 million, I have always personally been bemused by the practice of making public funding payments direct to an individual rather than the registered political party. Given the practice with the One Nation Party, for example, I think you could argue that that recommendation—recommendation 1 of the 1996 report—is something that would be deserving of fairly speedy transaction.

A number of the others I think are less pressing in terms of urgency. Whilst there are some we support, we think they need some careful consideration. For example, having an accredited

auditor's review as an attachment to the party's return I think needs to be thought through more effectively. The issue of anonymous donations is problematic. We do not encourage, for obvious reasons, anonymous donations, but there are some issues which need resolution there. That was done a bit on the run.

Senator MURRAY—This is the season for fiscal fundraising. Professor Gerritson has said that in a peak year in the past \$26 million had been raised, so I suppose it would not be unrealistic to expect it to be \$30 million this year. That is just a stab in the dark. At some stage we are all going to have to address the issue of the pressure on the political parties to raise vast sums of money, the pressure they apply to businesses and unions for vast sums of money and the duress that both sides experience, and the question of whether the quantum of individual donations should be restricted in any way. I will give you a ceiling as an example—half a million dollars could be the maximum donation you could make. Has the Liberal Party given any thought to the escalating situation of being required to raise more and more funds and whether there should be a legislative cap on the total amount of funds that political parties can raise?

Mr Crosby—It is obviously an issue that has been raised from time to time and discussed within all parties and in the public arena. In different countries different approaches are taken. There are limits on how much individuals can spend, how much can be spent in the name of individual candidates—this is elsewhere—versus parties, and what have you. I think that you have to be careful about some of those constraints. Certainly we would not want to see Australia go in the direction of the United States where the average congressman spends from 80 per cent to 85 per cent of their time raising funds. I think we are protected to that extent by the strength of political parties in our country. It is a much better practice, frankly, that all political parties have applied where the parties have the responsibility to raise funds for campaigns in support of candidates. I think that is a healthy thing. Despite all the attacks people make on political parties, I think that clearly is a healthy aspect of our system rather than having a situation where individual congressmen, as in America, have to spend a large amount of their time raising funds. I think some of the problems that we have observed elsewhere in the world are overcome by the nature of this. Even minor parties here have a relatively strengthened party structure these days.

We have seen in the past attempts to limit or ban television advertising that were found to be outside the law. We would object to caps being put on, essentially because the imposition of a cap itself would provide differential advantage to one party over another which of itself is essentially therefore using the electoral laws to limit or change the political dynamic. We have not been successful in reaching out to the trade union movement, for example, Senator Murray. Whilst it is true that the Labor Party benefits significantly from financial contributions from the trade union movement, it also has access through affiliation and so forth to thousands of conscripted workers in other ways that are essentially not disclosable. If you simply say, 'We're going to cap spending,' that leads to political activity occurring in other ways which can give unfair advantage to one entity over another.

Senator MURRAY—I will put my last question on notice, Mr Crosby—with your permission, Mr Chair. I would suggest you only need to answer it after the election because I guess you will be pretty busy before. You have mentioned the separation of the AEC's functions and I have not heard that suggested before. Perhaps I have missed it elsewhere. I would like to ask

you if the Liberal Party could come back to the committee at some stage and indicate what foreign precedents there are for that and how they operate.

Mr Crosby—Certainly. I must stress that I expressed it as my view, because it is very much my view and does not necessarily represent an agreed position on the part of the party. But I do think it is something that we should look at, and therefore I would be happy to respond.

CHAIR—I am mindful of the time. We will take one more question. Any other questions I am sure the Liberal Party will be prepared to answer on notice in the way that they will answer Senator Murray's question on notice. They have already indicated that they may wish to come back to a future public hearing and expand some of their comments on the AEC submission anyway, so this is not the last opportunity that we have to hear from the Liberal Party if members of the committee want to do so. Senator Faulkner, do you have a final question?

Senator FAULKNER—I think we will explore those issues at a later stage. I might just ask Mr Crosby to explain to the committee his and the Liberal Party's association with the Greenfields Foundation, what the link is between the trustees of the Greenfields Foundation and the Liberal Party of Australia, and whether he has any ongoing contact with any of the trustees. Also, does the Liberal Party still not think the Greenfields Foundation is an associated entity?

Mr Crosby—The Liberal Party of course accepts the adjudication of the AEC that the Greenfields Foundation is an associated entity. We dispute it, but we accept that that is their determination and we have always sought to comply with any request of the Australian Electoral Commission with regard to that body. As I understand it, that body has been twice audited by the AEC and it has satisfied all requirements of the Australian Electoral Commission. It is easy and convenient to name that entity and try to turn it into some funnel of funds to the Liberal Party of Australia but it was established arising from the application of a guarantee that called upon the guarantor. That has been well documented. The Liberal Party from time to time makes repayments of the debt it has outstanding to the Greenfields Foundation because of the assignment of a debt from a guarantor. That is really the start and finish of any direct and ongoing relationship—the payment of a regular amount to reduce the indebtedness of the Liberal Party to the Greenfields Foundation.

But, in all of this, I must stress that we have always disclosed that we were indebted to the Greenfields Foundation. The fact that it became a public matter that was capable of discussion and debate was because the Liberal Party reported the fact that it was indebted to the Greenfields Foundation in its annual return, and we did it openly and freely. We have not sought to use the Greenfields Foundation in any other way. We have not received any funds from it or donations via it. In terms of where the money we have been paying to the Greenfields Foundation has been going, it bears no relationship, for example, to the practice of the Australian Labor Party of exploiting what Senator Faulkner describes as 'a loophole to hide millions of dollars of donations'.

Senator FAULKNER—You described it as a 'loophole'. That was your word.

CHAIR—Thank you, Mr Crosby. Mr Edwards, I am sorry that you have again appeared before the committee and not been asked a question.

Senator FAULKNER—The suggestion is that these gentlemen will come back at a later stage, which I presume will be after the election.

CHAIR—That is a matter for the Prime Minister to decide, Senator Faulkner.

Senator FAULKNER—He is not the chairman of this committee. Aren't you?

CHAIR—He will decide when the election is.

Senator FAULKNER—I know he will. You and the committee will decide when the committee will have further hearings.

CHAIR—Indeed. Mr Crosby and Mr Edwards have indicated that they are prepared to come again.

Senator FAULKNER—I accept that they are very busy at the moment. We all appreciate that. We had probably best do it after the election.

CHAIR—They have said themselves that they want to appear again because they want to talk about the AEC submission.

Senator FAULKNER—There is a technical point here: with respect, Mr Crosby, you did indicate that, in relation to the AEC's submission—not the issues that Senator Murray was addressing, which related to the funding and disclosure of reports—the Liberal Party opposed recommendation Nos 1 to 8 of the total 25 recommendations. I think you were going to indicate a number of others.

Mr Crosby—There are a number of others: I do not know whether it is acceptable practice for me to provide a supplementary written submission to indicate—

Senator FAULKNER—We know that you oppose recommendation Nos 1 to 8—that was useful information. It would be useful to have that supplementary submission from the Liberal Party so we could explore those issues and work through—we might need to do this with the Labor Party, as well—why the Liberal Party in this case, or another party, has made those determinations about those particular recommendations. Some sort of early advice as to which of the actual recommendations are not supported would be useful.

Mr Crosby—I am happy to do that in a timely fashion—within a week or so. Once I started going through it I realised that we could be here all day just looking at the AEC's report.

CHAIR—We appreciate your coming along today, given all the other matters that are occurring. Thank you.

[1.20 p.m.]

GARTRELL, Mr Timothy, Assistant National Secretary, Australian Labor Party

WALSH, Mr Geoff, National Secretary, Australian Labor Party

CHAIR—Welcome. Evidence you give at the public hearing today is considered to be part of the proceedings of parliament and, accordingly, I advise you that any attempt to mislead the committee is a very serious matter which could amount to contempt of parliament. We have received your submission, which is numbered 16, and it has been authorised for publication. Are there any corrections, additions or amendments you wish to make to your submission?

Mr Walsh—No.

CHAIR—I invite you to make an opening statement and then we will proceed to questions. Please indicate whether, like the Liberal Party, you are prepared to come back if we do not finish questioning today—which is likely.

Mr Walsh—Chairman and members of the committee, we welcome the opportunity to be here today and to provide some information and make some statements about the view that the Labor Party has about the issues which are before the committee. They are important issues and I would like to briefly set out for your benefit the broad principles that underwrite the approach we take to these matters. Essentially, as the party which is responsible for the legislation relating to funding and disclosure, we have a very strong interest in seeing that two things principally occur: firstly, that all fund-raising bodies that are assisting political parties fully disclose the source of their donations; and, secondly—and this is self-evident in a sense—that there is a complete and meaningful trail of disclosure back to the true source of funds received by or of benefit to political parties.

We also believe that these changes are a legislative priority; that the AEC needs the support of the parliament in these matters to ensure that it can carry out its task of requiring political parties to comply where there is a doubt in their mind about their performance in that matter. We would have been keen to see these matters progressed a little earlier if it had been possible, nonetheless we welcome the fact that the committee is now dealing with these matters. That is all I have to say as an opening statement. Thank you for the opportunity to be here and we will take your questions.

CHAIR—I do not want to labour Markson Sparks, so I might come back to that. I will ask you some questions about a couple of other matters. The *Sydney Morning Herald* reported on 22 June that the Labor Party had been asked to explain a \$25,000 donation to the New South Wales Labor Party from unidentified business clients. It was an anonymous donation and an illegal donation. It was given to the Labor Party by a man called Benito Salazar who was, not long after, charged with the murder of a political rival. In response to questions about the source of the money, he said:

I don't have that kind of money ... They're foreigners. They are not from the Philippines, that's all I can say. Perhaps I will tell them about it and they can decide whether to come out.

That seems to stand in stark contrast to your submission, which says:

The guiding principle for the ALP in dealing with the regulation of electoral funding and disclosure is that there must be a complete and meaning trail of disclosure back to the true source of funds received by, or of benefit to, political parties.

Yet the Labor Party of New South Wales processed this donation and it only came to light when the *Sydney Morning Herald* brought it to light. Can you explain the seeming discrepancy

between your very high-minded intentions in your submission and the actual practice of declaration of anonymous donations and illegal donations?

Mr Walsh—I will preface my remarks by giving you a brief description of how we function in relation to fundraising so that you will understand the nature of what I can and cannot comment on in relation to these matters. The branches of the Labor Party operate separately for the purposes of fundraising in terms of disclosure, and any matters relating to fundraising activities that they undertake are disclosed by those branches and are subject to AEC audits and review.

Senator MURRAY—Is a branch a state?

Mr Walsh—States and territories, yes. Perhaps I could go into a little more detail and explain why that is. The national structure of the party has certain powers and responsibilities; certain other powers and responsibilities rest with the state branches. They are responsible for the administration of their affairs. They have administrative committees, rules that govern their behaviour in a range of areas and also fundraising activities, which are discrete and disclosable as the activities of that branch.

Senator MURRAY—But a constituency branch does not have autonomy.

Mr Walsh—No.

Senator MURRAY—That is just what I wanted to establish.

Senator FAULKNER—We have state and territory branches as opposed to the states and ACT divisions of the Liberal Party, if you wanted an equivalent.

Senator MURRAY—Or the Democrats.

Senator FAULKNER—I know it is different in the Democrats.

Senator MURRAY—We have divisions.

Senator FAULKNER—Yes.

Senator MURRAY—I understand that.

CHAIR—It is the same term.

Senator FAULKNER—‘Branch’ for ‘division’.

CHAIR—Yes.

Mr Walsh—I understand, in respect of the matter that you raised, that there have been inquiries made by the AEC and that the New South Wales branch is assisting the AEC in that matter.

CHAIR—This was in June this year—it has been a tremendously sensitive issue for the last 12 months. You are the national secretary of the ALP. Do you not take an interest when state branches are acting seemingly outside the law?

Mr Walsh—I have a responsibility in certain respects. They have responsibilities in others, as I have outlined. The people who have any information that may be relevant to that issue are the New South Wales branch. They are dealing with the AEC on the matter.

CHAIR—So you think it might be better for us to call Mr Roozendaal and see if he can respond to that question.

Mr Walsh—Obviously the committee is the master of its own destiny, but I am saying that I do not have the sort of detailed information about that or many other matters that relate to the activities of our branches in these issues.

Senator FAULKNER—That is a good idea, Mr Chairman; perhaps you could think about that. The other alternative that the committee has, given that we are going to have the AEC before us at our next meeting—

CHAIR—The other alternative is to ask them about it.

Senator FAULKNER—It seems logical to me that you could, as a starting point. Given that Mr Walsh has informed the committee that there is a direct relationship between the New South Wales branch of the party and the AEC on these matters, that might assist you if you want to take it further.

CHAIR—Sure. Perhaps you might be able to give us some more information on the McKell Foundation. The Labor Party said that they would disclose the donations to the McKell Foundation that would be appropriate to be disclosed to the AEC. Has the ALP disclosed its donations to the McKell Foundation yet?

Mr Walsh—I understand from Senator Faulkner's press release of 11 July that that is the intention of the McKell Foundation.

CHAIR—Do you know when they intend to do that?

Mr Walsh—I have no relationship with the McKell Foundation.

CHAIR—What is the McKell Foundation? As a body, it is a bit of a mystery to Liberal MPs. But we would be fascinated to know more about the McKell Foundation, because the allegation has been that it takes money from donations and then uses it to fly Laurie Brereton on trips around the world as part of his responsibility as the shadow minister for foreign affairs. Can you shed any light for the committee on the McKell Foundation and its involvement?

Mr Walsh—I do not have any direct details of it that I can provide to the committee.

CHAIR—But people like Sam Fiszman and John Ducker are apparently associated with the McKell Foundation, and they are prominent ALP figures from the past and present. So you do not have any knowledge of the McKell Foundation and how it operates?

Mr Walsh—No, I am sorry, Mr Chairman.

CHAIR—It must come as a surprise to a lot of people on this committee to learn that the national secretary does not know anything about the McKell Foundation. Yet the McKell Foundation is regarded as important enough for your spokesman for administrative matters—

Senator FAULKNER—Why don't you ask me?

CHAIR—to announce that, in fact, it will be disclosing donations. You do not know that the shadow cabinet does know; is that right?

Senator FAULKNER—That is because you, Mr Chairman, and other members of the Liberal Party have suggested that the McKell Foundation—

CHAIR—I did not ask you the question, Senator Faulkner. You are not a witness before the committee.

Senator FAULKNER—is an associated entity of the Labor Party. That has not been determined by the AEC—although a complaint has been lodged by the Liberal Party of Australia. As a result of that, I have had a discussion with the aforementioned Mr Brereton and he has indicated that he will be treating the McKell Foundation—even though it has not been determined that it is an associated entity—as an associated entity and has acted accordingly. It has absolutely nothing to do with the national secretariat of the Labor Party, but I think you know that background. I suspect that the question you asked was rather tongue-in-cheek.

CHAIR—Not at all.

Senator FAULKNER—Nevertheless, given that you have asked it formally, I think that explanation probably should stand on the public record.

CHAIR—What about Emily's List? Are you associated with Emily's List and the fundraising activities that go into Emily's List?

Mr Walsh—No, we do not have a responsibility for Emily's List in respect of disclosure or the organisation of their activities. We obviously are aware of them, as we are of things like the McKell Foundation. The information I can provide to the committee really relates to the matters that the national office has direct responsibility for in relation to funding and disclosure and the principles that underpin that.

CHAIR—So who runs Emily's List?

Mr Walsh—That is an organisation which is run by a group of people who have a commitment to its aspirations and ideals. Joan Kirner is the convener—I think that is her title.

She has a range of people—some of whom are members of the Labor Party and some of whom are not—who assist her in those activities.

CHAIR—Is the Carmen Lawrence defence fund operated out of the national secretariat or is that another separate group?

Mr Walsh—My understanding is that that has been wound up and was before I took over.

CHAIR—Right. So you have Markson Sparks, Emily's List and the McKell Foundation all happening and all raising millions of dollars for the Labor Party which are being used in campaigns, and you as the national secretary do not have any involvement with any of that. Is that basically your position?

Mr Walsh—It is not a matter of my position; it is a matter of a statement of the facts. These organisations run in these ways and they meet their responsibilities and obligations in respect of disclosure.

CHAIR—You hope!

Mr Walsh—No, I do not hope; I expect.

CHAIR—Does it ever worry you that, as national secretary to the ALP, you do not really know what is going on in these various organisations that operate under the general umbrella of the Labor Party and that you have no responsibility for whether they are doing the right thing?

Mr Walsh—I have a very strong belief that each of the officers of the party responsible for these matters is aware of their responsibilities under the law, complies with those responsibilities, complies with the AEC's requests for access to information and fully complies with audits as they are conducted. I must say that during my term as national secretary all of those audits, to my knowledge, have come out with a clean bill of health.

Mr MELHAM—So there have been no adverse findings during your period as national secretary?

Mr Walsh—Not that I am aware of.

CHAIR—I know that my other colleagues will have questions. I think you should have the opportunity to respond to a few questions on this Markson Sparks issue that we dealt with with Mr Crosby. I think we are all generally aware of how the Markson Sparks operation works so we do not need to go over that again. Is Mr Markson an office bearer of the ALP?

Mr Walsh—No to my knowledge.

CHAIR—Is he a member of the ALP?

Mr Walsh—Again, not to my knowledge, but I do not have responsibility for membership. That sits with state branches.

CHAIR—So he is not regarded as an agent of the ALP, as far as you are aware? You would not regard him as an agent of the ALP, someone who was basically being given the contract to raise millions of dollars for the Labor Party?

Mr Walsh—I would not, but I would not know either in that sense.

CHAIR—So you, as national secretary, do not have much information about how the Labor Party operates, do you? They keep you in splendid isolation here in Canberra and operate around the country doing their own thing, do they?

Mr MELHAM—I tell you what: he got his eight branches to sign off the funding to the national secretariat, unlike the Liberal Party.

CHAIR—Who controls the activities of Mr Markson in terms of fundraising for the ALP? I assume there is a contract between Mr Markson and the ALP, and he is asked to raise—

Mr MELHAM—I think Mr Walsh wanted to make a comment on one of your comments.

Mr Walsh—I was only going to say that I take very seriously my responsibilities in relation to funding and disclosure, to the extent that they are responsibilities of the national office of the party. I might also say that we have in our platform a fundraising code, which was passed in 1994. It remains there and guides the activities of all elements of the party, so we are not bereft of guidelines or principles in relation to this matter. I am here to give you the information about the matters for which I have responsibility.

CHAIR—Sure, but this Markson Sparks issue is of great interest to the public and it is important to get to the bottom of it as much as we can. Wouldn't you say that it strikes against the intent of the Electoral Act for there to be an opportunity for people to make donations at fundraisers, to buy a \$7,000 ticket, or to buy auction items—say, a Bradman bat or the jersey of an AFL footballer—for \$10,000 or \$15,000, or to buy raffle tickets at \$100 each in a book of 10, and then have Mr Markson flush it through his funds in a \$100 shelf company and pay the money to the ALP in one great lot and say, 'Well, we have fulfilled our obligations under the Electoral Act'? Don't you think that strikes at the heart of the intention of funding and disclosure laws in Australia? Do you think it might damage the confidence that people have in the political system when they see a political party operating that way and then saying, 'It's a loophole that we have used; it should definitely be closed and we will close it, but in the meantime we'll take as much advantage of it as we can'? Don't you think that is an ironic position to adopt, that that's a bit cynical?

Senator FAULKNER—It is not our position, so it is certainly not ironic! You know what the position is, so let's get on with it.

CHAIR—Mr Walsh is the witness—

Senator FAULKNER—I explained it to the committee not more than 15 minutes ago.

CHAIR—I put a very fair question to Mr Walsh about people's confidence in the funding and disclosure system. He is the national secretary of the ALP, the ALP is operating a scam funding operation, and I am just asking—

Mr MELHAM—You have no proof that these are scams.

CHAIR—if he believes that that strikes at the confidence of the system.

Mr MELHAM—Why doesn't the Liberal Party support recommendation 3 of the AEC? If it is a scam—

Senator FAULKNER—Why don't we all agree to change the law?

Mr MELHAM—Exactly! That's the point.

Senator FAULKNER—Given that we want to change the law.

Mr MELHAM—You're the blokes opposing it!

CHAIR—Mr Walsh, would you like to answer the question rather than worrying about the two crows on my left and right?

Mr MELHAM—The crows have got your measure.

CHAIR—There are a couple of crows over here—Skippy and Mo.

Senator MURRAY—Mr Chairman, we do not have much time.

CHAIR—No, we do not. Mr Walsh, do you want to try to answer the question as best as you can?

Mr Walsh—I will not try; I will answer the question. I will answer it in this way: the New South Wales branch has undertaken to voluntarily disclose the proceeds from Markson Sparks functions. This is an act the branch is taking of its own volition because it believes it wants to ensure that there is compliance with both the letter and the spirit of the law. Here is an act which the party has undertaken of its own volition to improve the nature and level of disclosure, and I think it should be replicated to the extent necessary by all parties.

CHAIR—Does it intend to go back and disclose those that have already occurred, or is this only a prospective measure?

Mr Walsh—It dates from the Whitlam function that I am sure you are aware of.

CHAIR—The 85th birthday bash?

Mr Walsh—Yes.

CHAIR—So the ones beforehand will not be disclosed?

Mr Walsh—I am sure you are aware of that.

CHAIR—But the Bill Clinton one will be disclosed?

Mr Walsh—Absolutely.

CHAIR—In the interests of time, are there any other questions that people have?

Senator MURRAY—Yes. I will be brief, but I just want to cover some of the ground I covered before. Mr Walsh, you probably heard the questions, so I will not restate the questions in full unless you need me to. At a quick glance, the Liberal Party said they supported 18 of those recommendations. You support 21, so you will be glad to know that you are ahead!

Mr Walsh—We will always go further!

Senator MURRAY—Do you think there are any urgent matters which should be dealt with before the election?

Mr Walsh—Just so I am clear, are you referring to the AEC's submission?

Senator MURRAY—I am referring to your summary of the two AEC proposals. You probably do not have it before you, but you do support 21 of those. I repeat that I think we only have these two weeks left of sittings before the federal election—in which case, I would like to know if you think there are any urgent matters that have to be dealt with before the election.

Mr Walsh—I would think that, to the extent that it is possible, it would be desirable to get all of these matters dealt with expeditiously. Some of them are obviously of greater moment than others, and I would think that recommendation 8 of 1998 would have particular relevance to the present discussions and concerns and is a matter that certainly should be pressed forward with. But I think that, to the extent that it can be managed and to the extent that there is, as you say, quite a range of these matters which are not in dispute, it would be desirable.

Senator MURRAY—I have asked these questions deliberately because, where there is agreement between the major parties—and we ourselves support most of these as well, if I can speak as the Democrats—it is not beyond the wit of government to produce a non-controversial bill, especially for next week, which deals with a few of these matters. If the two parties are prepared to talk to each other on these matters, I just believe that—

Senator FAULKNER—You know our position, Senator Murray, don't you, on this?

Senator MURRAY—I do indeed. The second question is—

Senator FAULKNER—And you know what the problem is too, don't you?

Senator MURRAY—The second question I have relates to this quantum issue. I am concerned that every year it escalates and we are dealing with nine governments and nine elections. The fundraising pressure, particularly on the majors and on their donors from the corporate and the union sectors, is very high, and I think at times it amounts to duress on both sides, simply because of the pressures of election demands. I wonder if the Labor Party have given any thought to the issue of a cap on quantum at some stage, either in gross—say, not more than \$30 million in a year or whatever figure is decided on, indexed—or on individual donations.

Mr Walsh—It is an important issue. Could I say that that is why the growing demand for fundraising to support the cost of elections leads us to have such a strong view about full disclosure. It may be that in time some debate about that issue can lead to the conclusion that there needs to be some containment, but I think the best immediate course is for there to be the most effective mechanisms for disclosure and for full disclosure.

Senator MURRAY—This is my last question, given the time—do you believe that this committee should seriously consider the issue of a quantum cap, or do you think it is premature to do that?

Mr Walsh—I think it is premature and that in these areas it is probably something that needs a good public airing and the expression of views, both from donors as well as recipients.

Senator MURRAY—That is all I have to ask.

Senator FAULKNER—Could I ask you if you are aware of paragraph 5.1 of the funding and disclosure report for the 1998 election. It says:

5.1 The primary public concern over the effectiveness of the Act's disclosure provisions since the 1996 report has centred around The Greenfields Foundation

Were you aware that the AEC had made that comment in its 1998 funding report?

Mr Walsh—Yes.

Senator FAULKNER—And then it goes on in paragraph 5.6:

5.6 It is apparent that a person, or in certain circumstances a corporation, who wished to avoid full and open disclosure could do so by a series of transactions based on the Greenfields model.

I was wondering if you could inform the committee whether the Australian Labor Party would consider using such a device to avoid full and open disclosure, or whether this is just one that is used by the Liberal Party?

Mr Walsh—We would not consider it. We would not do it.

Senator FAULKNER—I think that will be a relief to those who are concerned about these sorts of issues. In relation to the Liberal Party proposal in its submission to this committee's inquiry after the 1998 election, it argued that disclosure thresholds should be raised from \$1,500 to \$10,000. Would you support such a proposal?

Mr Walsh—No, we would not. We believe that disclosure levels should remain.

Senator FAULKNER—What would motivate a political party to put such a proposal before the Joint Standing Committee on Electoral Matters? Such a proposal would mean that an extraordinary number of donations would not be made publicly disclosable. What do you think the motivations of a political party might be? In this case it is the Liberal Party, I interpolate here, Chair.

CHAIR—Mr Walsh cannot know the motivations of a political party, Senator Faulkner.

Senator FAULKNER—I wonder what the impact would be. He might have a general understanding of what the impact would be—in this case, as I mentioned, it is the Liberal Party's proposal—and why such a suggestion might be made.

CHAIR—It is a fair question and I am sure Mr Walsh will be able to answer this one, unlike all the questions about the activities of the Labor Party about which he has no knowledge at all.

Mr Walsh—That is not true.

CHAIR—I am sure he has plenty of knowledge about the motivations of the Liberal Party.

Senator FAULKNER—I am surprised you would make such a comment from the chair, but we will get to that in a moment.

CHAIR—It is an aside, Mr Walsh.

Mr Walsh—With a threshold of that order, it would be possible to raise very large sums of money without providing a satisfactory level of public disclosure of the sources of those funds.

Senator FAULKNER—The chair has asked a number of questions about Markson Sparks. I wondered if the Australian Labor Party was aware of a weakness or loophole in the Commonwealth Electoral Act. I do not care what terminology is used here. I have previously used the word 'loophole'. Mr Crosby used the word 'loophole' today. I am happy and comfortable with that terminology; or you can say 'weakness', if you like. It does not matter. Is there is a weakness or loophole in the Commonwealth Electoral Act that means that moneys raised on behalf of a political party by a professional corporate fundraiser under Australia's current electoral laws are not disclosable? I was wondering if you were aware of that situation.

Mr Walsh—I am.

Senator FAULKNER—Are you aware that the company that has been referred to at some length today, and in a number of other places, Markson Sparks!, is one such corporate fundraising entity?

Mr Walsh—I am aware of that.

Senator FAULKNER—My understanding is that it is likely to be—and I think we have heard evidence of this over recent times—a growing mechanism in terms of fundraising activities in the general community and in relation to political parties; and that political parties are more likely in the future, as with those organisations outside political parties given the current trends, to depend on this sort of corporate fundraising activity. Is there anything wrong with corporate fundraising? I am not going to the disclosure issue here. Is there a problem with a charity, a political party or anyone else employing a professional group to raise funds on its behalf? Is there anything wrong in principle with that?

Mr Walsh—Not at all. Parties employ a range of professionals to provide services to them in areas where they cannot possibly hope to have the expertise. The organisations are small. As we know, we have pollsters, advertising agencies and others who assist us in the work that we do, and fundraising is another area.

Senator FAULKNER—This gets to the nub of it. If political parties do, of whatever persuasion—in this case, the New South Wales branch of the Australian Labor Party has employed Markson Sparks to raise funds on its behalf—in principle, should those moneys be disclosed?

Mr Walsh—That is the view that the New South Wales secretary has taken and I think it is a proper view.

Senator FAULKNER—I agree with that. I have argued long and hard and will continue to argue that they should be disclosed. I have no problem at all with that evidence. What happens when the law does not require disclosure? Would most people agree that—it does not apply to the Greenfields Foundation but nevertheless it applies to most political parties, and most reasonable people would agree that these funds ought to be disclosed—until a parliament is ready, willing and able to change the law—in this case the Labor Party has signed up and has argued for a long time to change the law—it is reasonable for a political party to say, ‘Although we are not obligated to disclose, we are going to disclose in accordance with the provisions of the act’? That is, in other words, apply the letter of the act to the disclosure activities on a voluntary basis? What is wrong with that? Isn’t that a significant step forward than otherwise would be the case?

Mr Walsh—Going back to the principles I articulated at the beginning of this session, where there is not a legislative requirement you would think that political parties should act to respect the spirit and the intent of the disclosure laws.

Mr MELHAM—One of the recommendations it is important to put on the record is recommendation 3, which states:

that all those involved in an arrangement found to have been contrived to avoid disclosure should be subject to a financial penalty sufficient to act as a deterrent to engaging in such arrangements.

The Australian Labor Party supports that recommendation, as I understand it.

Mr Walsh—That is correct.

Mr MELHAM—Does it worry you that the Liberal Party have indicated today that they do not support that particular recommendation, despite all their mouthing off today in terms of Markson Sparks?

Mr Walsh—I think that those recommendations in the AEC submission broadly would have our support, and I must say that I am a bit puzzled as to why the first eight do not have the support of the Liberal Party.

Mr MELHAM—Indeed, recommendation 8 states:

that all entities and groupings whose membership or existence is significantly linked to or dependent upon the existence of a registered political party be treated as associated entities for disclosure purposes.

Does the Australian Labor Party support that recommendation of the Australian Electoral Commission?

Mr Walsh—These recommendations express a view from the AEC that it needs yet wider abilities to rein in all political fundraising.

Senator FAULKNER—Wouldn't you think that fixing this Markson Sparks loophole would be of a higher legislative priority, for a government that is so terribly appalled by this loophole, than the dash for cash bill to try to fix the Liberal Party's internal problems with public funding that you have managed to fix by sticking a letter in to the AEC? Would you think that or have I got the wrong end of the stick?

CHAIR—I fear you are leading the witness.

Senator FAULKNER—I am not meaning to.

CHAIR—No, you are not—it is just an unfortunate outcome.

Mr Walsh—I think it is a high priority and I hope that the committee gives it its support.

CHAIR—We are going to close the hearing now because we have to rush off to question time. There is one thing that you did say, though. You mentioned a 1994 internal ALP fundraising code—could we, as a committee, get that document?

Mr MELHAM—It is on the web site.

Mr Walsh—It is on the web site. I will leave a copy for the committee, Mr Chairman. There is a tab there.

CHAIR—Thank you very much for coming along today, Mr Gartrell and Mr Walsh, and for your generous attendance and answers to questions.

Resolved (on motion by **Mr Melham**, seconded by **Senator Mason**):

That this committee authorises publication, including publication on the parliamentary database of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.55 p.m.