



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**Reference: Schedule 1 of the Tax Laws Amendment (2008 Measures No.1) Bill 2008  
[Provisions]**

TUESDAY, 29 APRIL 2008

CANBERRA

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**JOINT STANDING**  
**COMMITTEE ON ELECTORAL MATTERS**

**Tuesday, 29 April 2008**

**Members:** Mr Melham (*Chair*), Mr Morrison (*Deputy Chair*), Senators Birmingham, Bob Brown, Carol Brown, Hutchins and Ronaldson and Mr Danby, Mr Bruce Scott and Mr Sullivan

**Members in attendance:** Senators Birmingham, Carol Brown and Ronaldson and Mr Melham, Mr Bruce Scott and Mr Sullivan

**Terms of reference for the inquiry:**

To inquire into and report on:

The provisions of Schedule 1 of the Tax Laws Amendment (2008 Measures No. 1) Bill 2008

**WITNESSES**

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**Committee met at 11.06 am**

**CHAIR (Mr Melham)**—I declare open this public hearing of the Joint Standing Committee on Electoral Matters. The committee is inquiring into schedule 1 of the Tax Laws Amendment (2008 Measures No. 1) Bill 2008, which deals with the tax deductibility of contributions and gifts to political parties, members and candidates. The inquiry was referred by the Senate on 19 March 2008 and the key question for the committee to determine is whether tax deductibility for contributions and gifts to political parties, members and candidates should continue. Today we will be hearing from representatives of the Treasury and the Taxation Office and Associate Professor Graeme Orr, who is representing the Democratic Audit of Australia.

The committee just held a private meeting, where we released nine submissions. A number of those submissions came from political parties and will be available on the website and here in the committee room. As I said in the meeting, anyone who has any comments in relation to those submissions can put in supplementary submissions. Most of those submitters, particularly major political parties, declined to appear before the committee on the basis that everything they had to say was in their submissions to the committee.

Today's evidence will be recorded and will attract parliamentary privilege. Before introducing the witnesses, I want to say that this is a matter for the media but, obviously, we expect them to fairly and accurately report proceedings of the committee, which is a requirement.

**Senator RONALDSON**—Chair, before we proceed, can I again put on the public record the coalition's objection—and we have no-one from the minor parties here—to this matter being dealt with today, our objection to these matters being dealt with in isolation and our request again to this committee to ensure that all these matters are dealt with by this committee in toto in line with the terms of reference, which has previously been agreed to by the committee.

**CHAIR**—Thank you, Senator, that is now on the record. I note that a number of submissions also take the view that you have expressed.

**Mr BRUCE SCOTT**—Chair, could I just reinforce the senator's point. The National Party would hold that view as well.

**CHAIR**—I take the point. It does not need to be repeated. Senator Ronaldson is the shadow spokesman; I am happy for him to make those points. I do not regard these hearings, to be perfectly frank, as hearings where members are going to start making statements and eulogising. We are here to hear evidence from witnesses. We will get our chance later. But a fair point has been made in a number of the submissions. The National Party submission takes your view as well, Mr Scott, so that is a matter for the record.

[11.09 am]

**COLES, Mr Tony, Manager, Personal and Retirement Income Division, Department of the Treasury**

**GALLAGHER, Mr Phil, Manager, Retirement and Intergenerational Modelling and Analysis, Department of the Treasury**

**HARDY, Mr Michael Andrew, Assistant Commissioner, Small and Medium Enterprises, Australian Taxation Office**

**O'CONNOR, Mr Mark John, Principal Adviser, Personal and Retirement Income Division, Department of the Treasury**

**CHAIR**—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and, therefore, they have the same standing as proceedings of the respective houses. Do you wish to make an opening statement to the committee?

**Mr O'Connor**—I would like to make a short opening statement before answering questions. On 2 March 2007, the government announced its intention to remove tax deductibility for political donations and gifts, as an election commitment. Schedule 1 to the bill simply amends the tax act to ensure that a contribution to a political party, Independent member or independent candidate would not be deductible to the average taxpayer. To achieve this policy, the current specific provisions for deductions relating to political donations will be repealed, and this is what schedule 1 to the bill achieves. Provisions that are currently made up in subdivision 30DA of division 30 of the Income Tax Assessment Act 1997 outline specific criteria for deductions. This is the main amendment to give effect to the government's commitment. That completes our opening statement and we will be happy now to take questions on it.

**CHAIR**—Just for the benefit of those here and those listening, the way I propose to conduct the hearing is to ask some short questions as chair and then open it up to members of the committee, giving them equal time. Basically, I will give each member of the committee that wants to speak roughly equal time, alternating between the opposition and government members. If there are any summary questions, we will finish up with them. The explanatory memorandum indicates that, if this bill is passed, there will be a savings, between 2009 and 2012, of \$30.4 million—\$10.1 million in 2009-10, \$10.3 million in 2010-11 and \$11 million in 2011-12.

**Mr O'Connor**—That is correct. However, on my numbers, it is \$31.4 million.

**CHAIR**—Okay. How were those figures arrived at? What formula was used to determine each year's level of saving?



**Mr Gallagher**—The Australian Electoral Commission has records of donations to political parties available on its website. In the Retirement Income Modelling Unit, we took a copy of those records. We sorted them so that we got people who were the same entity making multiple donations so that we could test the issue of what the thresholds were.

The problem with the data in terms of the contributions was that, because the \$1,500 threshold had been in place for 2003-04 and 2004-05, we had to make significant adjustments. There were only a few donations declared below that threshold to the data, but we could cost accurately in terms of the implications above it.

The costing methodology is explained in the election costing, which was publicly released by the Treasury during the election period and is available on the election costing website. There are two elements to it. One is the contributions element, which is based on the Australian Electoral Commission data. The other element, as done in the election period, is the costing in respect of memberships.

The contact for the election costing given by the Labor Party was Mr Anthony Baker. In order to clarify the costing request, I sent him an email. In response to that email, he confirmed that the proposal was also to remove the tax deductibility of memberships. That meant that in, doing that costing, we had to get estimates of the number of members of political parties in Australia and what their membership fees were likely to be. For membership fees, we looked at party websites and applications for—

**Senator RONALDSON**—Chair, will that document be made available to the committee?

**Mr Gallagher**—The election costs?

**Senator RONALDSON**—No. The other one you are referring to—

**Mr Gallagher**—This one is on the website as well.

**CHAIR**—It is on the website; it is publicly available.

**Mr Gallagher**—Yes. It is the official request, so it is published. Speaking about the membership costing, we got the level of fees by looking at what parties were saying were membership fees. We took the membership of parties by doing an update, attempting to think about the development of a membership study done by the ANU and published by Dean Jaensch. Obviously, we were not privy to that study by Dean Jaensch and Peter Brent entitled *Australian political parties in the spotlight*. We used that in trying to get approximate membership numbers.

**CHAIR**—If you have a spare copy of that, we might have it.

**Mr Gallagher**—Yes. That was used to get the memberships to cost the membership fee, and obviously we got the annexed tax rates.

**CHAIR**—The government indicated that it wanted this measure to commence on 1 July 2008.

**Mr O'Connor**—That is correct.

**CHAIR**—If that did not occur, is your evidence that that \$10.1 million figure of 2009-10 would then be revenue that was forgone?

**Mr Gallagher**—Yes.

**CHAIR**—Because the next period, 1 July 2009—

**Mr Gallagher**—Yes. In the costing, we have attempted to differentiate between periods when there is an election and when there is not an election, because federal elections have a significant impact on donations to political parties. We have put in variations through the years on that basis, and that was our estimate for that year.

**CHAIR**—A number of submissions suggest that a compromise might be to go back to the former position of just allowing tax deductibility of up to \$100 or some other figure of membership fees as against donations. Have you done any separate costings as to what that different figure would mean?

**Mr Gallagher**—We have not re-costed at the \$100 threshold, but the important element of this costing is the membership subscription part. The average membership subscription I think we calculated to be \$62 a year.

**CHAIR**—What percentage of paying members did you have at that level in terms of taxpayers who get deductibility as against pensioners, home duties, unemployed, retired, who form the bulk of membership of political parties?

**Mr Gallagher**—The costing I have in front of me does not identify those elements separately.

**CHAIR**—Did you have a percentage figure, or did you use 100 per cent of the membership?

**Mr Gallagher**—In the costing we have done, we have allowed for that.

**CHAIR**—You have allowed for what?

**Mr Gallagher**—We have taken what we took to be the membership of parties. The membership of parties is something that is a closely guarded number.

**CHAIR**—I understand that. But the point I am making—it is why I am asking the question—is that there is membership of parties and a number of those members are not taxpayers and therefore they cannot get a deduction. In other words, pensioners, home duties, retired and unemployed can form a large number of members of a political party, so they are not all paying members who are claiming tax deductions.

**Mr Gallagher**—We have not reduced the estimate for that.

**Senator RONALDSON**—To get a realistic assessment of the membership of a political party, I think probably, in all fairness to everyone, any membership number you are given should be divided by half and then again by four. Was it only that one inquiry that was conducted—and I think you said it was from the ANU?

**Mr Gallagher**—Yes, from the Australian National University. That was the most up-to-date study that we could find that attempted to estimate membership of political parties. It is not something that we could get from any public source. We used those numbers—which, in themselves, appear to be somewhat conservative—for estimating the membership component of the costing estimate. The membership component of the costing is \$4.3 million in each year. As concerns the relevance of that to the \$100, we say that the average membership fee is below \$100 and, if membership remained deductible, that is the amount of revenue that would become deductible.

**Senator RONALDSON**—Do you think it is likely that the political parties would overstate or understate their membership?

**Mr Coles**—We would have to rely on a political party's honesty in that regard.

**Senator RONALDSON**—So, on that basis, any work that was done by the ANU would be subject to the same qualifications that you have given just now.

**Mr Coles**—I would leave it to the organisations—

**CHAIR**—You did not question the figures you were given; you just accepted them.

**Mr Gallagher**—We had to use the number and we had to do a costing; therefore, we scoured the political science literature to find the best estimate we could get.

**Senator RONALDSON**—I assume that would be, at best, a guesstimate, would it?

**Mr Gallagher**—Yes, because essentially the thesis in the article is that parties do not give out numbers, because membership may be declining and they do not want to reveal that. I do not know whether that is true or not.

**Senator RONALDSON**—Based on that comment, you would think there would probably be an overestimate of the membership numbers as opposed to an underestimate.

**Mr Gallagher**—I think this is the best estimate they could get and—

**Senator RONALDSON**—But you have made the assumption that there would be an overestimate by political parties to protect the membership perception. That is implicit in what you say.

**Mr Gallagher**—I am saying that it is very hard to find statements by people giving out the current level of membership of political parties.

**CHAIR**—Can I just clarify something? In the costings document, a 90 per cent claim rate was assumed because not all party membership forms mention deductibility of membership subscriptions.

**Mr Gallagher**—Yes, that is right.

**Senator RONALDSON**—Effectively, that is different from what is an unknown number, isn't it?

**CHAIR**—I am not disputing that.

**Mr Gallagher**—Yes. So we have assumed—

**Senator RONALDSON**—You have given—I assume this is yourselves—a significant caveat and qualification to the costing. Is that right?

**Mr Gallagher**—Yes, many.

**Senator RONALDSON**—Would you just like to run through that for the committee, please?

**Mr Gallagher**—We said:

Given the range of implicit and explicit assumptions used to produce these revenue estimates it should be noted that actual outcomes—

**Senator RONALDSON**—I am sorry, Mr Gallagher. You are reading from a document, aren't you?

**Mr Gallagher**—I am reading from the official published release of the election costings. That seems as good a summary of the issue as any other. That quote continues:

... it should be noted that actual outcomes may vary from these estimates if assumptions or behaviour change from our expectation. In particular, data on political party membership fees received is poor and data on donations below the AEC—

that is the Australian Electoral Commission—

disclosure threshold is also poor.

**Senator RONALDSON**—We have discussed the former. Can you just elaborate on your concerns in relation to the latter, the disclosure matters?

**Mr Gallagher**—This was when I was discussing contributions. In the data we have from the Australian Electoral Commission website for 2003-04 and 2004-05, the \$1,500 disclosure threshold was already in place and there were very few donations disclosed below that level; therefore, we have had to make assumptions about what the potential level of donations below that level was in order to take up that distribution to probably being about the actual size that it was.

**Senator RONALDSON**—Those assumptions again were?

**Mr Gallagher**—Those assumptions were essentially that, if it was not in an election year, we should assign a weight of 2,000 to a value that was there; in other words, we should say that one

in 2,000 people would have declared. If it were an election year number, we would say that the number should be 775, in order to get it to the level of donations of the right order of magnitude.

**CHAIR**—Can you tell us how you achieved that assumption? What was the basis of it?

**Mr Gallagher**—The assumption was based on the level of funding that we presumed would come from donations below a level. As I say, it is a very problematic assumption about what the level of donations is at that level.

**Senator RONALDSON**—You have been handed a poisoned chalice. The reality is that you do not know what the membership numbers are and, therefore, the value and the weighting you have given to those at best is imprecise.

**Mr Gallagher**—We have said that it is imprecise.

**Senator RONALDSON**—And again, in relation to the second point that you make, the reality is that Treasury really has no idea what the costing of this is.

**Mr Gallagher**—No.

**Senator RONALDSON**—Thank you.

**Mr Gallagher**—I am saying no, that is not the case. I am saying that we do have some idea and we have used the best data available to get some idea. We have used the best data available on memberships to get some idea of what the costing is. It is not that we have no idea. We have some idea, but we have admitted that that idea is imprecise because of the availability of information.

**Mr BRUCE SCOTT**—Can you describe the definition of ‘donation’ for tax deductibility purposes?

**Mr Coles**—In the tax act there is no definition of what a donation is. For division 30, we make reference to a contribution and that contribution includes a gift. A gift has common-law meaning in general. Basically, a gift is where generally there is no expectation of or wanting something in return. ‘Contribution’ again is an undefined term, so we use its common meaning, which is an amount contributed to or added to the fund and those sorts of things.

**Mr BRUCE SCOTT**—For instance, business people might go to a lunch or a dinner at night where there is a political speaker and will be paying X amount quite clearly above the cost of that lunch or dinner. Can their business claim that as a legitimate business expense?

**Mr Hardy**—There are some particular taxation rulings that talk about that basically. The component that represents the estimated lunch component may potentially be an expense in terms of entertainment expense or something, but it will not be a donation expense. The amount above and beyond, on the guidance of the rulings, is potentially a donation towards a fundraising activity. If that recipient body was a deductible gift recipient body, then the business people attending could receive a tax deduction for that component.

**Mr BRUCE SCOTT**—But you really would not have any idea of what would be claimed in those circumstances with lunches, would you?

**Mr Hardy**—From the macro level of the information that might be returned in the business's tax return, no, because amongst all the other expenses you would not know from that level. That is why we put out guidance to assist businesses and any other taxpayers. If we were to undertake an audit of that business, we would apply the interpretation of our rulings to the detailed receipts and other material that might be involved in an audit. If something were found to be inconsistent with our rulings, we would make adjustments on that basis.

**Mr BRUCE SCOTT**—For instance, to have a meeting with a shadow minister or a minister at the state, territory or federal level might cost you from \$500 up to \$5,000, as we have seen sometimes reported in the press. Is that a business expense that is deductible?

**Mr Hardy**—Again in the context of you meeting with a member of parliament and buying them lunch—

**Mr BRUCE SCOTT**—We regularly see reports of this—conferences are coming up of all political parties—that so-and-so has paid X amount to meet ministers at a state, territory or federal level. Is that a donation?

**Mr Hardy**—It would be difficult to determine exactly what is going on from press reports. If the factual scenario were that there was a fundraising luncheon and a business paid \$5,000 to attend the luncheon that was known to be of a certain calibre then we have taxation rulings that would advise what components relate to actually buying the lunch, which is typically not deductible, and the amount over and above that may be known as a donation. If the recipient of that donation were a deductible gift recipient, a charity or potentially, under the present law, a political party then the donor could receive a tax deduction for that.

**CHAIR**—Mr Scott, whilst I am reluctant to cut you off, that is not an area that we are inquiring into at the moment. We can pick that up in the broader inquiry that we are doing.

**Mr BRUCE SCOTT**—We are talking about revenue forgone because of donations to political parties. That is what we are looking at here. Following on from Senator Ronaldson's point, really we do not have any idea as to what is a donation and what is not a donation. We are dealing here with a very narrow spectrum of an interpretation—

**CHAIR**—That is something that we can look at in the broader inquiry. I do not want to stop you in terms of the broader inquiry, but this is about tax deductibility, not donations.

**Mr BRUCE SCOTT**—But they are tax deductible. We heard from the witnesses that these lunches and meetings with ministers from the state, territory or Commonwealth governments—all levels of government where these sorts of procedures have gone on in the past—could be tax deductible. So it is all about tax deductibility and the possibility of revenue forgone.

**Senator RONALDSON**—This Savings for Labor's Better Priorities: Remove Tax Deductibility for Political Donations policy was released on 2 March last year, was it?

**Mr Gallagher**—Yes.

**Senator RONALDSON**—You are aware that the ALP had supported this tax deductibility after 1996. Were you aware of that?

**Mr Gallagher**—I am not fully aware of the position of the party at the time. I was aware of the policy.

**Senator RONALDSON**—And it had gone to this committee after the 1996 election and indeed the \$1,500 extension was, via this committee, a unanimous decision. Were you aware of that?

**Mr Gallagher**—I was not aware of that.

**Senator RONALDSON**—When were you given this policy to cost?

**Mr Gallagher**—I was asked to cost the ALP policy when we received the costing request, which is stamped 2 November 2007.

**CHAIR**—The document that I have a copy of says on the front page that the date of request was 5 November 2007.

**Senator RONALDSON**—Had the Labor Party itself prior to giving it to you costed the policy that you were asked to cost?

**Mr Gallagher**—There is a costing in the Labor Party costing request document. That costing is essentially doing the move to \$1,500 for the relevant years, which was shown as costs of \$5.4 million and \$5.7 million. The Labor Party costing said that they believed that \$3 million should be added to that cost to allow for the contributions under the \$1,500 threshold. So that gave the Labor Party a costing of \$8.4 million in 2009-10 and \$8.7 million in 2010-11.

**Senator BIRMINGHAM**—On the timing of the release of the policy and the costings, when was the Treasury analysis of the costings publicly released?

**Mr Gallagher**—I am not sure I have an exact date. It is going to be about five working days or so after the date of the request, 5 November.

**CHAIR**—Perhaps you can come back to the committee on that.

**Mr Gallagher**—I can come back to the committee. It is just not apparent from the document itself.

**Senator BIRMINGHAM**—So the policy was released eight months before it was given to Treasury, but you had five working days to try to get the data required and do the analysis that you could to come up with these costings.

**Mr Gallagher**—We had previously done political donation costing requests for the former coalition government. Because we had previously costed other policies, the costing framework

was in place—but because they were costings for a previous government I am not at liberty to disclose what they were. So we had much more time to work on the costing framework and the approach.

**Senator RONALDSON**—I have one final question. What was the Labor Party's costing of savings on membership—about \$3 million?

**Mr Gallagher**—No. The Labor Party did not, as far as we can tell, include the membership costing in their costing request. If you look at the document, it is about increasing the tax deductibility of political donations. The membership part of the costing was confirmed by email correspondence between me and Anthony Baker, who was given by the Labor Party as the contact on that type of issue.

**CHAIR**—Can I take you again to the cover sheet, though, which says:

On 8 November 2007 the ALP confirmed that “Federal Labor’s policy is to abolish the tax deduction available for all donations or contributions to political parties, including membership fees”.

**Mr Gallagher**—Yes, and that was the confirmation we received.

**CHAIR**—On 8 November?

**Mr Gallagher**—On 8 November, and that is why that element was added to our costing.

**Senator RONALDSON**—Once you had that figure from the Labor Party?

**Mr Gallagher**—No, we did not have any figure from the Labor Party in relation to that element of the costing. If you look at page 3 of the official Treasury costing, it talks about ‘significant differences between assumptions specified in the ALP costing request and the Treasury costing’. It says:

The original ALP costing request did not mention the loss in tax deductibility for membership subscription fees. Confirmation by the ALP led to this being included.

The ALP had assumed that the loss of tax deductibility for donations under \$100 could represent a revenue gain of \$3 million per annum from 2009-10.

We did not have the data to confirm that. It is quite likely that the ALP knows far more about political donations than the Treasury does, but we were not able to actually have any data that confirms that.

**Senator RONALDSON**—So your assumption was that membership fees were not included, and there was a \$2 million difference, I think, wasn't there? It went from \$10.1 million to \$8.4 million—is that right? And then you added in the membership, which you say took it up to—

**Mr Gallagher**—We get a costing on removing the deductibility of contributions and then we add to it our costing on removing the deductibility of membership subscription.



**Senator RONALDSON**—Yes but, Mr Gallagher, from the \$8.4 million for the Labor Party's costings, you added on the membership—

**Mr Gallagher**—No, we did not use the ALP's costing as the base; we used our own costing as the base.

**Senator RONALDSON**—But once you got confirmation from the Labor Party about the membership, you then added another \$1.7 million.

**Mr Gallagher**—No, we added in our costing of the membership subscription costs, which, using the factors we have discussed, is \$4.3 million a year.

**Senator RONALDSON**—On the basis that there is a \$1.7 million difference, that being the difference between that initial figure and the \$1.7 million you added on for membership, how do you then justify your \$4.3 million figure?

**Mr Gallagher**—The \$4.3 million figure is justified on the basis of our estimate of the number of members of political parties, an average donation of \$62 and a 90 per cent claim rate, making some allowance for not all people claiming it as tax deductible, or being able to claim it as tax deductible, at an average tax rate for those claiming the deductibility of 35 per cent.

**Senator RONALDSON**—But you just told the committee that the \$8.4 million from the Australian Labor Party did not include membership fees.

**Mr Gallagher**—That is our understanding.

**Senator RONALDSON**—When you got that figure, you then added it to your equation.

**Mr Gallagher**—No. At no point have we—

**Senator RONALDSON**—I am trying to work out where the difference with the 4.3—

**Mr Gallagher**—We have done an update of the original costing—a Treasury costing, which the AFP used—shown in the budget papers, of \$5.4 million in 2009-10 and \$5.7 million in 2010-11. What the ALP costing did was add \$3 million in each year to those amounts. We were not able to verify donations under \$100. We have made assumptions to try to represent the total of donations there, but we do not have data for donations below \$1,500.

**CHAIR**—Senator Brown, do you have any questions?

**Senator CAROL BROWN**—I am having difficulty hearing. If you have answered this question, I will move to another one. Are you able to tell the committee how much this measure of individuals and organisations claiming political donations up to \$1,500 has cost taxpayers since its inception?

**Mr Gallagher**—Although I do not have our updated numbers with me, they will be very close to the original costing, which appeared in the budget papers and is the one the ALP quoted in its attempt at the costing. So the original costing was shown as 4.9 million in 2007-08, 6.5 million

in 2008-09, 5.4 million 2009-10 and 5.7 million in 2010-11. The 2008-09 number is higher because it reflects the deductibility of donations in 2007-08, which would be an election year.

**Senator CAROL BROWN**—Are you able to separately identify who is using this measure—individuals versus organisations and corporations?

**Mr Gallagher**—We do have a split between individual refunds and company tax for the contributions part of the costing.

**Senator CAROL BROWN**—Did you say you have that information?

**Mr Gallagher**—Yes, I do have a split.

**Senator CAROL BROWN**—Are you able to give me that information now or provide it to the committee?

**Mr Gallagher**—I will take the question on notice.

**Senator CAROL BROWN**—Those are all the questions I have, Chair.

**Mr SULLIVAN**—Were any of the witnesses involved in instructing the legislative draftsman who put this bill together?

**Mr Coles**—Yes.

**Mr SULLIVAN**—My question goes to the drafting, and specifically to the instructions, given to the legislative draftsman. I want to know if the exemptions that remain for office holders and employees are as a consequence of specific directions given by the government or due to existing principles remaining in place due to a lack of specific direction.

**Mr O'Connor**—The provisions in relation to that were retained because it is a general concept that, where a person incurs expenditure in the course of gaining and producing their assessable income, those expenditures are deductible, which is the general tenet of section 8.1 of the Income Tax Assessment Act 1997. I think we have put some examples in the explanatory memorandum—for example, an accountant who needs to be a member of a particular professional association such as the CPA or the Institute of Chartered Accountants to perform their duties, a doctor, who will generally be a member of the Australian Medical Association, and those types of things. Where those expenses are incurred in gaining and producing the assessable income that that person derives, then the general tenet of taxation policy is that those deductions should be allowable.

**Mr SULLIVAN**—I understand that. My question goes to the instructions given by the government. Were you given any instructions regarding that by the government or has the principle remained in place because of a lack of direction?

**Mr O'Connor**—It is not normally the case in relation to drafting. For policies, we are given a policy decision and we try to give effect to that policy.

**Mr SULLIVAN**—I understand that. I will finish on this point on the same question: this then establishes two classes of members of a political party—one class that can claim its membership fee as a deduction and another class that cannot.

**Mr O'Connor**—That would be correct.

**Mr Coles**—It is not a class for the purposes of the membership of a political party; it is a class for the purposes of the tax outcome.

**Mr SULLIVAN**—Okay. That is correct, but it treats members of a political party differently because of the employment that they have.

**Mr Coles**—That is the effect of the tax outcome.

**Senator BIRMINGHAM**—Could you confirm to me, firstly, the taxation status of trade unions and what tax benefits they may enjoy in terms of any exemptions.

**Mr Hardy**—Generally, organisations organise for their membership benefits. This may include a trade union or an employer organisation. Any sort of organisation that is organised for the benefit of its members can be tax exempt under one of the provisions of the taxation legislation. In this situation, I guess the benefits they enjoy are that they do not pay tax on their income and, if it is a benefit, they do not need to lodge a tax return. That is pretty much it in terms of taxation. But they may separately, depending on the organisation, approach the tax office for other tax concessions and benefits. They may approach the tax office for deductible gift recipient status, for example, so that if they do receive donations or membership subscriptions or other sorts of things there may be a deduction for them. Most typically, though, in the context of an employee related organisation—a trade union or some similar organisation—the membership subscriptions are based on those members getting advancement of their employment prospects, if you like, out of their involvement with that employee association.

**Senator BIRMINGHAM**—So the first part you speak of is what is broadly known as the mutuality principle, is it, whereby income generated for the benefit of members of a membership organisation is not taxed and, therefore, union income generated would not be taxed as a result of that principle?

**Mr Hardy**—Mutuality does not need to apply to the specific provision within the tax legislation for employer or employee associations of members. So it is not explicitly mutuality, although it does closely mirror the that you would get under mutuality. However, it is a specific category built into the taxation legislation.

**Senator BIRMINGHAM**—So any registered employee organisation can obtain those benefits?

**Mr Hardy**—Yes.

**Senator BIRMINGHAM**—Are union membership fees tax deductible?

**Mr Hardy**—Yes. When you are paying your membership fee for employer or employee associations, they are tax deductible.

**Senator BIRMINGHAM**—So the membership fee is tax deductible and then the income derived from the utilisation of those fees is potentially also non-taxable?

**Mr Hardy**—Exempt from tax, yes.

**Senator BIRMINGHAM**—Do you have any estimation of the value of those contributions or the foregone revenue as a result of those tax arrangements?

**Mr Hardy**—The tax office, to my knowledge, has not been asked to cost that. I do not know if Treasury have had any costing requests in relation to that.

**Senator BIRMINGHAM**—There are no estimates as to how much revenue may be foregone either from membership dues to trade unions or from the income-generating activities of trade unions?

**Mr Hardy**—It has never been a question put, at least to the Taxation Office, to cost. I guess if it were we could cost it. We would not determine it as revenue forgone, necessarily, as it is part of the legislation at the moment. It is the appropriate operation of the law, so it is not a loss to revenue. If it were a comparison between ‘if the law were X’ and ‘if the law were Y’, we could look at the revenue differential.

**Senator BIRMINGHAM**—Is Treasury aware that the trade union movement would comprise the largest single group of donors to political parties in Australia?

**Mr Gallagher**—Trade unions do appear in the Australian Electoral Commission register of donations and contributions. Similarly, companies appear and individuals appear. I have not looked at the exact balance between trade union donations and other donations in the register.

**Senator BIRMINGHAM**—If one wanted to provide, in a sense, a backdoor way of making a deductible donation to a political party under the proposed amendments, doing so through a trade union would be quite possible, would it not? You join a trade union and your membership is deductible. If that trade union is donating to the political party, you have the deduction in your pocket as a result of your membership.

**Mr O’Connor**—I think that would go to the circumstances of individual taxpayers’ cases. For example, for a person who is an employee and a member of a union claiming a deduction for their membership fees to the union, it would be deductible because it is incurred in gaining or producing their income. Where a person is not an employee and is similarly a member of a trade union, they would not be getting those deductions because it is not incurred in gaining or producing their income.

**Senator BIRMINGHAM**—Let me put it perhaps a different way, then. An individual taxpayer who wants to donate to a political party under the proposed changes would not enjoy tax deductibility. A trade union who wants to donate to a political party would be doing so with

funds that have not been taxed. So an individual taxpayer would have to contribute out of taxable funds; a trade union may well be doing so out of non-taxed funds.

**Mr Hardy**—I guess it depends how far you want to trace the line of funds. At that first level, yes, the income of an employer or employee association may be exempt, and so, if they were to donate that to a political party, the income that they have donated would be exempt. However, if you trace back where they get their income, it is similar in the situation of an individual. They got their income perhaps from their employment and their employer paid tax et cetera. So I guess it depends how many steps you wish to trace it, but certainly that first step—that is correct.

**Senator BIRMINGHAM**—I think we are talking a fairly narrow range of steps here. It is two steps versus one step.

**Senator RONALDSON**—Are the levies that members of political parties pay deductible?

**Mr Hardy**—Yes.

**CHAIR**—That is what I claim each year as part of my employment.

**Mr BRUCE SCOTT**—Is that to a union or to a party?

**CHAIR**—No, it is to the Socialist Labor Party.

**Senator BIRMINGHAM**—So members of parliament, staff of members of parliament and party employees would all still be able to claim membership fees or compulsory levies as deductions under the proposed amendments?

**Mr Coles**—Yes.

**Senator RONALDSON**—But under this legislation a member of the community who wants to make a donation to engage themselves in the political process cannot get a deduction.

**Mr Coles**—It goes back to the fundamental principles in tax law that an amount is deductible if it is incurred in gaining your assessable income. We are maintaining that principle for members of parliament, office holders and employees.

**Mr BRUCE SCOTT**—Someone who wants to make a political donation would join a union. If they want to join a political party, they would not enjoy the same benefit. That is the way I interpret what was just said.

**CHAIR**—Can I just asked this—

**Mr BRUCE SCOTT**—No, I have the call—

**CHAIR**—Hang on. I want to follow up on yours. You cannot join 10 trade unions—

**Mr BRUCE SCOTT**—I have not had my question answered.

**CHAIR**—You will get it next.

**Mr BRUCE SCOTT**—You are leading the witness.

**CHAIR**—I just want to crystallise this because it goes to employment. Let us be reasonable here. The union has to be part of their employment. If I want to join 10 unions, I am not entitled to tax deductibility for joining those 10 unions if they do not relate to my employment; am I right?

**Mr Hardy**—That is correct. To extend the example that Mr O'Connor talked about in the explanatory memorandum, if a doctor joins, for example, the Australian Medical Association then their payment of fees is deductible. If an accountant joins the Australian Medical Association, they will not have deductions for that membership.

**Senator BIRMINGHAM**—Is there any cap on the value the membership fee of a trade union can be?

**Mr BRUCE SCOTT**—Is it \$100?

**Senator BIRMINGHAM**—Or \$1,000 or \$10,000?

**Mr Hardy**—Not to my knowledge. In the tax legislation there is no cap. In relation to deductibility, neither, because if an individual feels that they get fair value from paying whatever the employer or employee association charges for membership and that then relates to their employment then it is deductible under the general provisions of section 8.1.

**Mr BRUCE SCOTT**—If a husband and wife were holding down two or three jobs, as we often find, wanting to get ahead and were part of two or three unions, they would claim each of those union expenses because it is part of the job they are involved in.

**Mr Coles**—It goes back to the general principle. If it is an expense incurred in earning their assessable income then it is deductible.

**Mr BRUCE SCOTT**—So they could be a member of more than one union.

**Mr Coles**—There is a lot of implication and assumptions—

**Senator RONALDSON**—That is a very good point. I think you should pursue that.

**Mr BRUCE SCOTT**—It is deductible.

**Senator RONALDSON**—Yes.

**CHAIR**—Not if it is not related to their employment.

**Mr BRUCE SCOTT**—No. But they have three part-time jobs.

**CHAIR**—If they are part-time jobs and the membership relates to their employment, the test is the same. If it relates to their employment, it is deductible.

**Mr BRUCE SCOTT**—I understand that.

**CHAIR**—It is not deductible because it is going to a union; it is deductible because it is union coverage in relation to their employment I take it.

**Mr BRUCE SCOTT**—Yes, but if a doctor joins the AMA that is one organisation—

**CHAIR**—That is correct, isn't it, Mr Coles?

**Mr Coles**—That is correct.

**Mr BRUCE SCOTT**—But if you want to join three unions because you have three different spheres of work you are involved in you could be contributing and getting tax deduction for those three union fees.

**CHAIR**—If you want to be a barman at the local pub or club as well as a doctor, you can join both unions and they are both deductible.

**Senator RONALDSON**—Mr Hardy, if you are in a workplace where there is coverage by the ETU, the Australian Workers Union and other unions, why would you not be able to in that circumstance join all those unions and claim the deduction?

**Mr Hardy**—I am not familiar with the rules about union membership and whether if you are a member of, say, the ETU in one workplace you could also be a member of some other union in that workplace. But I presume if that were allowable by union membership rules and both of those unions related to your employment in that workplace then, yes, your subscriptions to both of those unions would be deductible.

**Senator RONALDSON**—You said to Mr Scott that you couldn't be. The answer is you could be.

**Mr BRUCE SCOTT**—You could; yes, that is right.

**Mr Hardy**—Chair, I need to clarify it.

**CHAIR**—If you want to clarify it, Mr Hardy, that is fine. I do not have a problem with that. If there is a misinterpretation here at this end let us clarify it.

**Mr O'Connor**—Perhaps, Chair, another example may be of assistance. Say, for example, a person is an accountant and a practising lawyer. In that circumstance the fees to, for example, the Institute of Chartered Accountants in Australia would be deductible for that particular individual as would also the membership fees of the law society. But if that particular lawyer and accountant then tried to join the AMA, my understanding—and Mr Hardy might correct me—is that those fees would not be deductible.

**Senator RONALDSON**—I have one more question in relation to levies. The Parliamentary Library is of the view that levies imposed on members to assist a political party are not per se deductible. However, they put this scenario, and I will read from this document I have in front of me, that, where the only means of changing the legal framework to secure better employment conditions depends on assisting a particular political party which has promised to change them in the immediate future, there is much to be said for the view that the levy paid by members is tax deductible.

**CHAIR**—Before you answer that, I note ‘much to be said’. Even on what has been said, ‘much to be said’ does not mean that it is tax deductible.

**Senator RONALDSON**—I appreciate that, and that is why I am asking the question. In that situation is that levy potentially deductible?

**Mr O’Connor**—It is probably more of an interpretation issue.

**Mr Coles**—I guess we are at a slight disadvantage in that we do not have the whole document. I at least have not seen the document.

**Mr O’Connor**—Perhaps, Chair, we could take that question on notice, discuss it with the ATO and get their view.

**CHAIR**—Yes, if you would take that on notice. Senator Ronaldson can provide the relevant parts. I am interested in obtaining accurate information. I am not interested in something that is at cross-purposes.

**Senator BIRMINGHAM**—Do you have any estimates as to the number of taxpayers who will continue to be eligible to claim membership of a political party as a deduction under the changes?

**Mr Gallagher**—No.

**Senator BIRMINGHAM**—In reference to my earlier question that it encompasses members of parliament, their staff and party employees, we would probably be talking about thousands of people around Australia, putting together the state and territory legislatures, this place and party organisations. Is that a fair approximation or assessment?

**Mr Hardy**—I do not know. But if it helps we can use that number to advance the conversation.

**Senator BIRMINGHAM**—I suspect thousands, when you add it all up, is likely to be the case.

**CHAIR**—So you make your staff become party members?

**Senator BIRMINGHAM**—We don’t; I have heard stories on your side of it though.

**CHAIR**—I am just interested in an accurate figure; that is all.



**Senator BIRMINGHAM**—Indeed. At present that would probably be favouring the Labor Party by 60 or 70 per cent, I imagine, given that cohort of members of parliament, staff and party officials who could claim membership compared to others by virtue of the composition of parliaments around the country.

**CHAIR**—Can I get you just to ask questions at this stage, Senator.

**Senator BIRMINGHAM**—Is it fair to say there will be three categories of possible deductions? One group is those who are members of parliament, staff and party officials, who can get a direct deduction for the membership.

**Senator RONALDSON**—Plus levies.

**Senator BIRMINGHAM**—Yes, plus levies, which the Labor Party use extensively. Another group choose to join a trade union that is known to be a generous donor to political parties and get a deduction for their union membership fee. Then there are every mum and dad taxpayer out there who will not even get diddly-squat by way of any deductions for choosing to engage in the political process.

**Mr O'Connor**—I will just clarify the second point you raised about the person making donations to the union. It would only be deductible when there is a sufficient nexus to that person's employment. If you are employed in that particular industry and you are contributing to that particular union, yes, that is a nexus.

**CHAIR**—I will get you to move on, because I am about to close this section.

**Senator BIRMINGHAM**—I will move on to the next section. Do these amendments close off the claiming of legitimate business expenses in the course of engagement with political parties at all?

**Mr O'Connor**—No, they would not. Legitimate business expenses would remain. That is incurred under section 8.1.

**Senator BIRMINGHAM**—So a lobbying company that attended networking functions organised by a political party would be able to claim the expenses of attendance at those networking functions?

**Mr Hardy**—It is difficult to give you a definitive answer until we see the final shape of the legislation from an interpretive point of view. In the hypothetical context of a lobbying enterprise being involved in political luncheons, if the tax office had sufficient concern that in fact this was really fundraising and donation work as opposed to legitimate business activity—and that is a terribly fraught interpretive space—we would possibly pursue some questions about the deductibility of some aspects of those expenses. But it is very difficult to answer a hypothetical question on legislation that is not in place.

**Senator BIRMINGHAM**—But we have legislation before us, which is what we are being asked to consider.

**Mr Hardy**—We have a bill before us.

**Senator BIRMINGHAM**—Yes, we have a bill before us, and that is a bill that Treasury has played a role in drafting.

**Mr Hardy**—Yes, I understand, but certainly from the tax office's point of view I am a little bit constrained. Until finalised legislation has passed, our interpretive function does not come in, so I am stretching right out here in terms of 'what if?' The final legislation may not look like the present bill.

**CHAIR**—I propose that Senator Birmingham puts his question in writing so that we have a specific question. There are some other questions that I am going to allow our deputy chair, who is not here, to put on notice to you. If you are able to answer them so we can obtain that information, maybe that will be the way through. If the question is in a form that you can answer, we would appreciate the information.

**Mr O'Connor**—Certainly.

**Senator BIRMINGHAM**—We are looking at the specific proposals that parliament chooses out of these hearings, perhaps to adopt amendments to this bill. Obviously circumstances change, and the answers you will have given today will not reflect those amendments. We have a bill in front of us. What we are looking for is an assessment of the implications of this bill, should it pass. What you are saying to me is: in terms of the current business deductibility of business expenses that are claimed in relation to engagement with political parties, if you are the AHA in New South Wales, New South Wales hoteliers, a lobbying company or whatever, you will still be able to claim expenses, as you currently can, for networking functions or other events.

**Mr O'Connor**—Perhaps I will clarify. Your initial question said 'legitimate business expenses' with a political party. If we use the scenario where a research company or a data company purchase some information from a political party to be used in the carrying on of their business of producing research, or that type of thing, perhaps that would be a legitimate business deduction. That is their business, and if they enter into a legitimate arrangement with a political party to obtain some of their raw materials—like information or data—then, yes, it would be a normal expense.

**Senator BIRMINGHAM**—I am not sure that is really going to the nature of what I am talking about here in terms of, particularly, lobbyists.

**Mr Coles**—But for anything above that, if it were a gift or contribution on top of a legitimate business expense, that part of the amount given to the political party would not be deductible. The part that reflects an arm's length transaction for the provision of a good or service remains a legitimate business expense. Where, for instance, a gift or contribution exceeds what is an arm's length expense then that would not be deductible to the organisation.

**CHAIR**—I have been advised that our deputy chair has some questions on notice. He cannot be here. We will pick those up through the secretariat and send them to you. I am not trying to cut you off if there are some extra questions you want to clarify; I just think it is better that we

have tight questions and answers and, if there is any confusion, that we are not at cross-purposes. Obviously, the more information that we can get in terms of breakdowns, so much the better. But I think what you are saying, Mr Hardy—correct me if I am wrong—is that you have a problem with hypotheticals; you deal with legislation that has been passed.

**Mr Hardy**—Yes. Certainly, the tax office is somewhat constrained. I think the interpretation of actual law—

**Senator RONALDSON**—With the greatest respect, we have been asked to have an inquiry into this bill. Senator Birmingham, in my view, asked quite legitimate questions in relation to the interpretation of this bill so that we can make an assessment of where we might stand on it—

**CHAIR**—I am not cavilling with that.

**Senator RONALDSON**—and we have been told by Mr Hardy, ‘No, you will have to wait until after the event before we can give you some interpretation.’

**CHAIR**—No, that is not what he means.

**Mr Hardy**—No, not at all, Senator.

**CHAIR**—That is a misrepresentation, Senator. I do not mind you having a crack at me and the Labor Party but I am not going to have you misrepresent what public servants have come here legitimately to do, and that is to give evidence. They are not here engaging in the politics of this; they are providing information. What he is saying is that he can only provide information on a certain basis.

**Senator RONALDSON**—I object to the allegation that I was bringing a political matter into this, because I quite clearly was not.

**Mr Hardy**—Senator, I did offer to try and answer it as best I could, just with the caveat that it may change before it is finalised.

**CHAIR**—Which is legitimate.

**Senator BIRMINGHAM**—This might clear things up. Under existing laws, how are the expenses of a lobbyist company in particular—there are many of them out there—whose core business is lobbying and access to government, treated in relation to their engagement with political parties and politicians and government? That is without necessarily getting into meals, which I understand become a different component. Let us call it a stand-up, networking function with no meal provided. If a lobbying company attends a function with the Prime Minister or a premier, are they able to claim as an expense the entirety of that cost and up to what reasonable limit?

**Mr Hardy**—Basically, yes. If their business role is lobbying, networking and advocacy and they go to a function with political leaders in order to network, advocate and lobby, that will be just a business deduction for their business activity. There is no cap to that expense.

**Mr BRUCE SCOTT**—No cap? It could be \$10,000 or \$20,000?

**Mr Hardy**—Just as, if I were in a trucking business and I bought a \$50,000 truck, it would be a business expense for me.

**Senator RONALDSON**—I think one of the submitters to this inquiry talked about whether it might be appropriate to gross up donations from tax-exempt organisations which are making donations to political parties—that they might be grossed up and then become taxable. Has Treasury looked at that as an option?

**Mr Coles**—That is a matter of policy. Essentially, we can take it on notice but it is not something that I have done.

**CHAIR**—Senator, if you could tie down where that is in the supplementary submission or another submission we will pass that on. Senator Ronaldson wants to table some questions that he has been given, as I understand it, by our deputy chair, which I propose we will send to you. Mr Morrison has asked that some questions be asked.

**Senator RONALDSON**—I will be guided by you, Chair, unless you want me to read them.

**CHAIR**—No. If you table them, we will pass them on. Again, the invitation is there if any members have any supplementary questions.

**Mr BRUCE SCOTT**—Will they be put on the website as part of the evidence of today's hearing?

**CHAIR**—When we release the correspondence, that is how they will go on the website.

**Mr BRUCE SCOTT**—Was this topic discussed at the big 2020 Summit? There was some suggestion about root and branch tax reform. I am wondering whether this came up among the 1,000 brightest of our nation.

**Mr Gallagher**—We are public servants. We did not get to go.

**Mr BRUCE SCOTT**—You did not get to go.

**Senator RONALDSON**—You should have been there. You are in my top 10!

**CHAIR**—Mr Gallagher, you referred to the study by Jaensch. Can we have that document and include it in the records as an exhibit, if there is no objection?

**Mr Gallagher**—Yes. The one I have is an extract of the paper. I can send you the full paper.

**CHAIR**—If you could forward that in due course, then we can move a resolution to include it as an exhibit, because I think it relates to some of the evidence you gave. If you have been asked to provide additional material, we would like it to arrive at the secretariat by Friday, 9 May. Thank you for your attendance. It is much appreciated.

[12.15 pm]

**ORR, Associate Professor Graeme David, Democratic Audit of Australia**

**CHAIR**—Welcome. Do you have any comments to make on the capacity in which you appear?

**Prof. Orr**—Yes. I am an associate professor at the University of Queensland law school, although I appear today on behalf of the Democratic Audit of Australia.

**CHAIR**—Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the respective houses. This morning the committee released to the public the nine submissions received in relation to this inquiry and they will go on our website. Should you wish to make a supplementary submission to the committee arising from any of the material that has been received as evidence, please feel free to do so, although there is a time constraint on that. Do you wish to make an opening statement to the committee?

**Prof. Orr**—I would like to thank the committee for the opportunity to discuss the Democratic Audit submission on this issue. The Democratic Audit project has brought together political scientists, lawyers and some political practitioners in an ongoing study of Australian democracy. It has been based at the Australian National University and is now at Swinburne University and has twice been funded by Australian Research Council large grants.

The essence of our submission is twofold. Firstly, we welcome the reversal of the Howard government's extension of tax deductibility to \$1,500 and to corporate donations. We felt that \$1,500 was immodest and that corporations, as noncitizens and nonvoters, should not in principle have their contributions, which are often designed to purchase access and business advantage, subsidised by the taxpayer. Secondly, however, we oppose the bill's complete removal of tax deductibility. We think it unwise to close off avenues encouraging small-scale grassroots donating. With due respect, it is doctrinaire to say that tax deductibility is regressive because it is not open to, say, pensioners who might pay no tax. If that were true, it would be unfair to give charities tax-deductible status at all. We point out the Canadian model of a cap on deductibility of around Can\$500 federally and its further deductibility in all the Canadian provinces as a potentially balanced way of encouraging Australian residents to participate in politics.

Decreasingly few people want to join parties or regularly attend public political meetings, but increasingly people are engaging in politics online and on a transactional basis—for example, blogging or petitioning on a particular issue. The GetUp! style model shows that people are open to small-scale political donating online. We also note the tax deductibility of small donations does not favour one side of politics and the GetUp! model seems to suggest that.

Small-scale online donating is one of the few good things about political finance that is coming out of the United States, as Senator Obama is showing. We think, as a matter of principle, that limited tax deductibility gives both parties and Australian individuals incentive towards such small-scale donating and hence political participation. If the government is determined to push ahead with the policy of a complete ban, we would counsel that it is premature given the ground shift since the election in thinking about political finance. There is now very serious consideration, we understand, of even banning large donations or donations from companies and possibly unions altogether. If that occurs, where will the money parties need come from in that enlightened future? If it comes mostly from direct public funding, that risks a very statist political party culture. Tax deductibility is simply one indirect form of public subsidy and should be considered in the mix.

Further, it is wrong to say that low-level tax deductibility is an unequal form of funding, implying that the current form of direct public funding after elections is more equal. Direct public funding per vote closes out new political parties as well as minor parties who might not achieve a four per cent threshold. Tax deductibility therefore, if nothing else, is necessary to give new and small parties a boost. Indeed recent history has shown how the Greens and One Nation were better able to mobilise at the grassroots than the major parties.

If the government remains implacably imposed to any form of tax deductibility, our submission suggests an alternative, namely the UK proposal of matched funding. For example, in the UK it is proposed that for the first £10 of any donation, public funding of £10—a matching public subsidy—will be available. But such a system will be more costly to administer for both parties and the state and further lacks any direct incentive to the giver as opposed to the party. That finishes my statement.

**CHAIR**—We have a couple of members of the committee on the phone line. Mr Sullivan, do you have any questions at this stage?

**Mr SULLIVAN**—My question goes to the nature of contributions. Public funding is, if you like, an involuntary contribution by the taxpayer. A direct donation is a voluntary contribution. The tax deduction becomes a second involuntary contribution by the taxpayer for a contribution that they did not want to make. Is it fair that people who are moved to make that voluntary contribution are subsidised in that by people who are not moved to support the political process at all?

**Prof. Orr**—We are arguing that we want a balanced system. Overall, all parties agree we want a system where there is a mix of funding but a reduction of reliance on large-scale private donations. It seems to me that, if we want to foster small-scale donating and political participation in a culture that has otherwise been much less engaged, say, than the American culture, it is a modest proposal to suggest limited style tax deductibility, as they have in Canada as a way of encouraging political donating at the small-scale level.

**Mr SULLIVAN**—Are there any other human fields that you would wish to apply this to—for example, maybe the giving of a donation to a young sportsperson to further their sporting career?

**Prof. Orr**—I understand that a lot of sporting organisations established to foster sports can be charitably established. The principle of where you begin and end tax deductibility is really one

for public policy. We are simply saying that, if we believe in any form of public funding, this is a form of public subsidy that should be in the mix. But, accepting the regressive nature of tax deductibility and accepting that we do not necessarily want to give an undue advantage to the wealthier people, who would be the only people at the moment who could possibly afford donations of \$1,500 or more, we agree that tax deductibility should be reduced. We do not think it should be banned altogether—or else we think you need to look for another mechanism of encouraging small-scale donating as a form of political participation.

**Mr SULLIVAN**—For any donation—other than the membership of the party fee, which is from someone who is already committed—do you think that encouraging people to give money should be done in a way other than by making it cheap for them to do it?

**Prof. Orr**—I guess what we are saying is that we are moving away from the old-fashioned system where people, for lack of anything better to do or because they were highly politically engaged, would go out to political party meetings and public rallies and so on. We are moving much more to a culture based upon online and transactional engagement with politics. We think that it is possibly short sighted to remove the traditional small-scale deductibility in that context.

**Senator CAROL BROWN**—Why do you believe people make small-scale donations?

**Prof. Orr**—There is an expressive quality to it. People like to feel that it is a form of expression. Some people—if they are disabled or time poor, for example—cannot necessarily go out and man a polling booth. It is a form of political expression for them. Small-scale donation is not by definition or inherently a form of buying access or trying to gain a huge advantage for your side of politics.

**Senator CAROL BROWN**—So it is not about power and gaining favours?

**Prof. Orr**—I think there could be a culture in which that kind of tithing or giving might be encouraged by a group of friends or people who are otherwise politically active, but apart from that I do not think we have evidence in this country of a large-scale culture of small-scale donating. Our suggestion is to cap the deductibility as they do in Canada.

**Senator CAROL BROWN**—The people who make small donations do not do so to gain a tax deduction.

**Prof. Orr**—The tax deduction is simply an incentive, if it is sold properly. I must admit that the previous law dating back to the early 1990s, in my appreciation, was not one that was necessarily well known outside of people who were very careful in their tax affairs or who were already what we might call ‘political nobs’. For instance, in Canada, they get over that problem by having an item directly on the tax form pointing people to the tax deductibility of political donations. The problem they then have in Canada is that they require people to send in a copy of the receipt from a political party and some Canadians—especially in Quebec, where the major study has been done—do not trust the tax office with that kind of what they consider personal information.

**Senator CAROL BROWN**—Has your organisation actually done some research into what sort of people make small-scale donations and why?

**Prof. Orr**—In Australia? No. We have not had funding for that. It is very difficult to get empirical work on something when, at the moment, there is not an itemised checklist on the taxation form. There is also a problem in designing such surveys because people are not necessarily going to want to tell even an independent academic researcher about their political donating practices. At the moment, the sort of data to be relied on is all quite second-hand and indirect through the Electoral Commission.

**Senator CAROL BROWN**—It is probably right to say that many people making small donations do so because they are committed to a particular idea or cause and not because, at the end of the day, they might get a tax deduction.

**Prof. Orr**—The tax deduction at a minimum, if it is well known, might encourage people who would otherwise make a very small donation to make a slightly larger donation in the knowledge that they will get some of it back. Certainly, it is something that happens only once a year. It might happen 11 months after you make the donation. It has its limitations, but compared to, say, matching funding, it is a mechanism that has an incentive for the donor and is not just a mechanism to encourage political parties to go out and get donations and then make a claim for the matching funding.

**Senator CAROL BROWN**—Your organisation is welcoming the removal of deductibility for corporate donations. Can you outline for the committee some of the positives that your organisation sees with this removal.

**Prof. Orr**—The principle of political equality should primarily extend to individual residents and, particularly, citizens. At a level of principle, the extension to corporations was an issue for us. At a second level—I know this as a child of small business parents—extending it to corporations meant that, for example, someone who was very politically active or motivated could make a \$1,500 donation as an individual but also through their small company and, in effect, there was potential for double-dipping.

As to the donations made by businesses, under corporate law a business should not be doing anything that does not further the profitability or aims of the business. Corporate donations or donations through a corporate vehicle are essentially tied in many cases to buying access, which is different in kind from what we were talking about before, namely individuals making small donations as a matter of political expression, which every individual would still be entitled to do, whether or not they are a businessperson, under our proposal.

**Senator BIRMINGHAM**—Thanks, Professor, for your submission and time today. Is it fair to say that your attitude is that political activism, in particular grassroots political activism, has been until recently, with the internet revolution, on the wane?

**Prof. Orr**—That is the general impression of political scientists. I should say I am a lawyer, but I am speaking on behalf of some people who include political scientists. That is certainly my impression as a teacher of hundreds of different young people each year. It is on the wane in the sense that participation through traditional vehicles is on the wane but not on the wane in the sense that you have suggested. Through online mechanisms or a more transactional approach, more people than ever are signing petitions or taking an interest in particular issues but they are not necessarily engaging in the institutional, more formal political process.



**Senator BIRMINGHAM**—You cited Senator Obama’s presidential campaign as an example in your introductory remarks. Is that in a sense a signal that we are potentially on the cusp of a new level of activism through different mediums and formats?

**Prof. Orr**—Possibly. Obviously Senator Obama is a reasonably unique example of a charismatic politician at the right time within a moment of American political history. Whenever there is the possibility of a change of government or administration, I think you will see an increase in political activity. We saw some of that last year. I am not saying Kevin Rudd is at the same level of charisma as Senator Obama.

**Senator BIRMINGHAM**—Thank goodness. That’s a relief.

**CHAIR**—One of them is a winner; one of them is yet to be a winner.

**Prof. Orr**—That is true. Also you have to remember that the American political culture is already somewhat more engaged than ours simply because the Americans have that more associational culture and they are also more candidate focused, whereas our political parties are less candidate focused and tend to be more stable and probably have less of a messiah principle at work. American elections are centred on the candidate, whereas ours are centred partly on the leader and partly on the party brand.

**Senator BIRMINGHAM**—As we have the potential to perhaps capitalise in terms of activism in our democratic processes on the part of a more engaged group of young people going forward, your contention is that this is the wrong time to be removing an incentive, such as deductibility for small donations, that could encourage a surge in political activism, particularly by younger and new generations?

**Prof. Orr**—Yes, and also in the context that since the election we have had this crisis of confidence in the political campaign finance system and we are now having proposals to remove large-scale donations. The more pragmatic question is: where do parties get their moneys from? As I said in my introduction, it is problematic if they are going to rely almost holus-bolus on direct public funding. We say that tax deductibility, or alternatively matching funding, should be at least something in the mix to encourage the kind of political participation that all liberal democracies should be encouraging.

**Senator BIRMINGHAM**—You particularly highlighted the potential for, shall I say, the new sensation effect, which tax deductibility can help with, to encourage new entrants into the political process—God forbid, aside from the major parties! This relates to new entrants such as the Greens—and you cited One Nation—or Family First or other minor parties. Before they qualify for public funding, they would rely very much on those grassroots donations to get a foothold.

**Prof. Orr**—Yes.

**Senator BIRMINGHAM**—I do not know how much of the discussion with Treasury officials you heard before.

**Prof. Orr**—About half an hour. I have got a maths degree but it left me behind.

**Senator BIRMINGHAM**—It left a few of us behind, I am sure. I refer to the comments about arrangements for trade unions, lobbyists or political staff in terms of the way that the system could be manipulated even with these changes to provide tax-deductible or tax-free mechanisms for donations. Do you believe those types of things need to be considered for change as well as possible changes to overall deductibility?

**Prof. Orr**—The issue of levies, or what I call ‘tithes’ in our submission, is ultimately hardly a big-ticket issue. Our position is that it is open to all political parties to do this. If it is going to be effectively a contractual expectation of an MP or political staffer to be a member of the party or for the MP to contribute to the party then it seems to me, as the tax office said, that normal taxation principles have to apply. It would be unfair on the individual otherwise.

On the broader issue, I understand that it is a question about trade unions being generally tax exempt or trade union membership fees being tax exempt. Obviously the question of trade union and corporate donations is going to be a big issue for another day. It seems to me that the more significant matter of principle is whether individual trade unionists should have a right to opt out of political donations, as they do in, say, the United Kingdom. It does seem a bit unrealistic to me to be talking about individuals joining trade unions as a backdoor mechanism for contributing to a political party. The majority of a trade union member’s dues go on bargaining and grievance and other services. It would be an odd thing to do to try to make a donation to a political party by giving the money to a trade union. Not all trade unions are even affiliated with the Labor Party.

**Senator BIRMINGHAM**—Nevertheless, in terms of the consideration of our electoral funding laws the Democratic Audit have stated that they believe these issues of deductibility should be considered in the context of broader review—

**Prof. Orr**—Yes.

**Senator BIRMINGHAM**—and you would think that consideration of trade union tax deductibility, trade union expense or involvement in the political campaigning process and, indeed, the business expense deductibility for lobbyists and others, would be issues that should also be considered in such a broad-ranging review.

**Prof. Orr**—In a broad-ranging review—and really I am getting ahead of our submissions for the ongoing audit of the 2007 election inquiry and the forthcoming green papers—our position would be that certainly trade union contributions and affiliation fees would have to be looked at in any assessment of corporate and organisational donations and so on. But when it comes to the issue of tax deductibility, we do not have a problem with the issue of the general, more fundamental principle of industrial law and taxation law that membership dues to trade unions are tax deductible. You might disagree. To a certain extent it goes back to a 20th-century settlement where union security was encouraged. But it would seem to me unfair on individuals who may have an expectation within their workplace of collective bargaining and so on, who do not want to be free-riders, that they would lose tax deductibility of the industrial organisation subscription simply because that trade union might donate a certain amount to the Labor Party. And there is an argument indirectly that that is giving tax-deductible moneys to the Labor Party. I think that is throwing the baby out with the bathwater.

**Senator BIRMINGHAM**—But there is of course the further issue of the tax-free status enjoyed by trade unions and employer organisations.

**Prof. Orr**—And a whole range of other organisations that are simply not-for-profits because they do not make profits. Whether they then choose to make donations seems to me to be a question about the broader issue you were raising—for another day—of whether political parties should be entitled to receive large-scale contributions or donations or affiliation fees or direct donations or the purchasing of access through the Millennium Forum and so on.

**Senator RONALDSON**—Professor Orr, I just want to take you to paragraph 3.3 of your submission where you say:

Deductibility, in encouraging contributions, encourages a form of political participation. It provides an extra incentive to parties to solicit smaller donations, in doing so encouraging parties to interact with the wider public.

I take it from that comment that by taking away tax deductibility you are potentially disenfranchising people from the political participation that you have referred to?

**Prof. Orr**—We would not say disenfranchised; obviously people would still be entitled to make small-scale donations. But you are removing one incentive (a) for parties to solicit such donations and (b) the incentive for people to engage in such donations.

**Senator RONALDSON**—You have said that deductibility does encourage a form of political participation.

**Prof. Orr**—That is its purpose. Of course, it assumes that deductibility is well known and widespread and is not something hidden in the 50 pages of the *TaxPack*. We suggest that moving towards online soliciting of donations will be the perfect way for parties to make it very clear. Looking at the party websites at the moment, it is hidden away in the fine print. But you can sell the tax deductibility of donations. It is just like with charities. If you were removing tax deductibility for charities, they would be up in arms and saying, ‘It’s one element in our getting a higher level of support from the public.’

**Mr SULLIVAN**—You said that removing deductibility would take away incentive from parties to seek smaller donations and that therefore it might remove some incentive for them to get out amongst the people. I would contend that that would have the opposite effect because, in order to get those small donations they desperately need, the parties would have to work harder. Would that not be the case?

**Prof. Orr**—I am saying that deductibility provides something further that parties could sell to potential donors given that we have a system where there is a high level of cynicism about political parties. I will not put it higher than that. I should also say that it is part of a larger mix and, if we are going to look at possibly moving towards the Canadian model, it seems odd to me that we would not adopt the Canadian model of tax deductibility for small-scale donations.

**Mr SULLIVAN**—You might suggest that we move to the Canadian model, but I am not sure that the committee will agree with you. We can discuss that later.

**Prof. Orr**—But towards a more modest model of campaign finance.

**Mr SULLIVAN**—My concern is that you raised the issue of online donations and talked about the Obama campaign's capacity to raise money and that you think that may be where things are heading in the future. Most of those donations, I am sure, come from credit cards. We have a crisis in this country at the moment with people overextending on their credit cards and you seem to think that giving them an incentive to extend even further is a good thing. I am not sure I agree with you on that either.

**Prof. Orr**—I do not think we are yet at the crisis point where people are addicted to making political donations to major parties on their credit cards. If you want to go to America and do a fact-finding study on whether Obama supporters are near bankruptcy because of the overuse of credit cards, that might be a perfect question.

**Mr SULLIVAN**—I am prepared to leave on that study tour tomorrow.

**Senator RONALDSON**—There are 2½ years to wait before that opportunity arises! I want to get back to where I was before. The tax credits in Canada were introduced in the mid-seventies, weren't they, Professor Orr?

**Prof. Orr**—I would have to go back to Professor Massicotte's paper to find out when they were introduced, but they have been in place for several decades. There is certainly data going back to 1978.

**Senator RONALDSON**—When they moved to open advertising on tax returns et cetera about the availability of that tax credit, are you aware of whether there was a cultural change about smaller donations and that participation we were talking about earlier on?

**Prof. Orr**—I cannot say that, but I can say from Professor Massicotte's work—and I can pass on his details; I am sure he would be happy to help the committee secretary—that in the late 1970s through to the early 1980s in Quebec, where he did his studies, the number of donors were in some cases up to between 250,000 and 260,000 a year in that relatively small province. In the meantime, there has been something of a decline in confidence in the Canadian political system which meant that by 2001 they were down to between 50,000 and 90,000 donors. So tax deductibility itself is not guaranteed to maintain a culture of small-scale donating. Certainly in Canada they have more small-scale donating relative to population or electorate size than we do in Australia. That is also in a culture where they have been cracking down on large-scale donations in that period.

**Senator RONALDSON**—Can I take you to 5.2 in your recommendations:

We particularly recommend that deductibility be not abolished altogether until the government and/or JSCEM settles proposals for any revamping of the broader system of political finance.

I take it from that that you would want to see the question of tax deductibility and tax credits incorporated in a wider review and be part of any wider legislative response?

**Prof. Orr**—We may be partly contradicting ourselves, because whilst we are saying we welcome the lowering of deductibility and taking it away from corporations—and I guess the government’s intention is to have this in place for the next financial year—we would not like there to be yet another change further down the track if the government or JSCEM decide that you need to have some kind of tax deductibility measure to encourage small-scale donation. So I think it is premature to abolish it altogether.

**Senator RONALDSON**—So your view is that there is not sufficient urgency for it to be dealt with this year and it should be part of that wider review?

**Prof. Orr**—We are working on the assumption that so far the public debate on all sides of politics is to move towards a modest system. Our question would be: where is the money going to come from? We do not want in a liberal democracy to have a purely statist culture of direct public funding.

**CHAIR**—I have a few questions. From your research, are you able to say a significant number of members of political parties would allow their membership to lapse if tax deductibility were completely withdrawn?

**Prof. Orr**—No, I do not know of any such empirical research. I can certainly say that in the past I have looked at parties’ membership forms and there was not even mention of tax deductibility. You go online at the moment—

**CHAIR**—So most of them do not know it.

**Prof. Orr**—The Labor Party form currently mentions it but in terms of ‘political contributions’, which of course is ambiguous. So I certainly could not say this will necessarily lead to a big decline in political membership. It is hard to imagine a bigger decline than we have seen recently.

**CHAIR**—Has your research drawn any conclusions about how the removal of deductibility from corporate donations would impact on the size and number of donations to political parties from corporations?

**Prof. Orr**—No. Again, my colleague Dr Joo-Cheong Tham, who has another submission, applied for an ARC grant last year to try and do some of this empirical work, but we were knocked back.

**CHAIR**—In your submission to the committee, at paragraph 3.4, you said:

Deductibility inherently favours the political preferences of those with money to donate. Deductibility effectively discriminates against those with limited or no tax liability: many retired people and low income earners.

You maintain that view, do you?

**Prof. Orr**—We are saying that in the context that that is what social democratic philosophy believes. Obviously you need money to make a political donation. That is why we are saying it is a question of balance—to balance the issues of policy and requirements—the political parties

need money and need to rely on donations. To encourage political participation and to do it in a way that is not overly regressive, we suggest you look at the Canadian model.

**Senator RONALDSON**—To put it in context, the submission states it was putting the alternative forms of philosophy, I think, as opposed to necessarily supporting one or the other.

**CHAIR**—All right. I think he mentioned that.

**Prof. Orr**—I should say you need to ground the system so it is not overly regressive.

**CHAIR**—I apologise if I in any way—

**Prof. Orr**—No, you did not verbal me.

**CHAIR**—The committee has released today a late submission which it got from Stephen Sempill and Dr Joo-Cheong Tham. I want to quote sections of it to you and ask your views.

**Prof. Orr**—I did briefly read it before it was submitted.

**CHAIR**—They say:

The current provisions are inequitable on several counts. They discriminate against those who do not have to pay tax. Job seekers,<sup>4</sup> retirees without income, full-time parents and students not engaged in paid work who make small contributions or take out party membership are denied the benefit of the current system.

Do you have any disagreement with that?

**Prof. Orr**—As I said, you might as well say that any form of tax deductibility, including donations to charity, discriminate against such people. What I am saying is that you want to have a balanced system, and the Democratic Audit as a whole considers that the modest Canadian style deductibility would be a more balanced system than one that abolished them altogether.

**CHAIR**—I will come to that.

**Prof. Orr**—I should say that Dr Tham is part of the Democratic Audit, so in a sense he is in that regard dissenting from part of our submission. But, as I said, there are reasons why it is right to say it is doctrinaire to take such an approach.

**CHAIR**—Their submission says:

The threshold of \$1500 is quite high and provides tax relief for political donations that are out of reach of ordinary Australians.

**Prof. Orr**—We agree. Inherent in the first part of our submission is that we welcome the reduction of the expansion to \$1,500.

**CHAIR**—The next paragraph says:

Moreover, the current provisions allow corporations to claim tax deductions for their political contributions. This runs contrary to the aim of reducing the influence of 'big money'. Because corporate money tends to go overwhelmingly to the major parties, subsidising corporate contributions threatens to deepen the financial divide between the major and minor parties.

**Prof. Orr**—I am not so clear about that because I do not know of any empirical work that says that small corporate donations—up to \$500, \$1,000, \$1,500 or whatever—necessarily go overwhelmingly to political parties. It is really a question of what level you think donations designed to buy access are made at.

**CHAIR**—We have been told that the estimate of Treasury is that some \$31.4 million would be saved in the next three years if this legislation were approved by the parliament. You have not got any research that might indicate that Treasury are askew in terms of their assumptions and estimates, have you?

**Prof. Orr**—No, but we were a little surprised at that \$10 million per annum. It seems to assume a relatively high level of claiming—which may be fair enough—given that tax deductibility in the past has not been well advertised. Secondly, on a seat-of-the-pants assumption, if you are talking about \$10 million per year you are talking about \$30 million of donations at, say, a marginal rate of 30 per cent, which is roughly the corporate rate. Thirty million dollars is a lot of \$1,500 contributions or party memberships. I do not want to criticise the Treasury modelling without seeing it, but part of the problem we have is that we have not had a system where it is itemised on tax forms and we do not really have enough data on claiming, on where people's donations are going and so on.

**CHAIR**—Would you agree that there is potential for the major political parties to utilise that provision to bring in donations under that provision?

**Prof. Orr**—I am not sure I understand the question. What we are saying is that we agree that—

**CHAIR**—You could target professionals, a whole series of people, in relation to the major political parties right around the country.

**Prof. Orr**—You could target, I guess, plaintiff lawyers who may have money in their pockets to spend. Yes, that is why we are saying we think the \$1,500 is too high a threshold, and that will bring down the \$10 million estimate.

**CHAIR**—Wouldn't a cleaner system be, frankly, a reliance on public funding, as against a reliance on a taxpayer subsidy to unknown donors to political parties, unknown contributors and an element of sleaze and influence that will creep in, even at a local level?

**Prof. Orr**—Are you suggesting that people rort their tax returns to claim a political donation they have made?

**CHAIR**—I am not suggesting they rort their tax returns; I am suggesting that this is a system that can be utilised by political parties and activists to get people in in terms of their funding and that perhaps a better method of funding—and I am not saying this is being suggested by the

government—would be to look at the level of public funding and have clean, open money going into the political coffers and stop money coming in the back door. This is a back room—

**Prof. Orr**—That depends on how you make the political funding direct public funding. We have said that direct public funding at the moment discriminates against new and minor parties. I also question the assumption that the deductibility of donations up to a \$400 or \$500 maximum would be, effectively, sleazy or buying influence.

**CHAIR**—Then why do you oppose donations up to \$1,500? The \$400 or \$500 level is a different level. I know you are putting that as a compromise. I am putting the existing provision to you.

**Prof. Orr**—The existing provision?

**CHAIR**—Yes.

**Prof. Orr**—We said we had concerns about the \$1,500 level more on the grounds of political equality, because \$1,500 is \$30 per week, which is certainly more than the average trade union due. That is more than most people could afford. It seems to imply a model of upper middle class donating.

**CHAIR**—What about the suggestion I put in relation to a proper public funding system that covers the field for all political parties and aspirants, and that is open and transparent?

**Prof. Orr**—We know from the 1991 political disclosures act that even finding a fair and open free airtime system, which is a form of public subsidy, proved difficult. What we say is that tax deductibility is a form of public subsidy, there is no doubt about that, but a form of public subsidy which is aimed at the giver and the donor and which is trying to encourage that which we think is valuable.

**CHAIR**—Which is not transparent and not open?

**Prof. Orr**—We are talking about small-scale donations—amounts under \$1,000—that, even under the Labor Party's proposals, would not be disclosed anyway. Maybe you need to change the—

**CHAIR**—But the difference here—I am just testing the waters—is that we are talking about tax deductibility. If you are going to have tax deductibility, or maintain it, shouldn't transparency go with that process? That is what I like about public funding. You get a bundle of votes, you get the money in return and obviously—

**Prof. Orr**—You would like to ban all donations altogether? Under any disclosure—

**CHAIR**—The New South Wales government is looking at that matter. At the moment we have one element—



**Prof. Orr**—There would be very grave constitutional issues if the High Court implies a freedom of political participation, which some judges have in previous cases. So banning all donations completely is probably not going to be possible.

**CHAIR**—But you are aware that there is a method of doing it, taking into account what the High Court said back then?

**Prof. Orr**—I have particular doubts, particularly regarding the way the implied freedom has developed. Political donations on a small scale and joining political parties is a form of political participation; it is a form of expression. As I have said before, it is why most people would make a very small donation to a political cause.

**CHAIR**—Why should it not be done without tax deductibility? That is the fundamental question.

**Prof. Orr**—I thought your question was about openness and I am saying—

**CHAIR**—That is one aspect. But, with regard to tax deductibility, why should the taxpayer be asked to subsidise—

**Prof. Orr**—I just want to clarify what you mean by ‘openness’. Do you mean openness in the sense that the total amounts claimed and the parties they are going to and so on should be open through the tax information collection system?

**CHAIR**—No, that goes to privacy.

**Prof. Orr**—Do you mean that if individuals donate \$200 they should have to disclose that if they claim a deduction for it? That has political freedom implications.

**CHAIR**—Sure, but those are things that you would look at in a broader term. Maybe I was a bit loose with my words. What I am concerned about is the tax deductibility component here, which you have just repeated.

**Prof. Orr**—I am not sure where openness and transparency come into that. People, through their tax affairs, or public servants who might want to make small-scale political donations, would not want the small donation to be made public simply because it got a tax deduction. We could assume that every small-scale donation is potentially tax deductible and our argument is that there needs to be better education as to the tax deductibility status to make it work.

**Senator RONALDSON**—Chair, I think you have effectively prosecuted the case for tax deductibility to be part of a wider engagement in this whole question, and I would like to congratulate you for doing so.

**CHAIR**—Thank you, Senator Ronaldson. I so missed you in the years you were not the senator for Victoria. Are there any other questions from Senator Brown, Mr Sullivan or anyone else?

**Mr SULLIVAN**—I have one final question. Professor Orr, the removal of tax deductibility from political donations was an election commitment of the Labor Party. It was made, firstly, I think by former opposition leader Kim Beazley and it was reiterated by Kevin Rudd. It was costed in the period leading up to the election. This particular tax bill—it is not an electoral bill—gives effect to that election promise and yet there are people like you now arguing that the government should not go forward with an election commitment. Are there any other election commitments of ours that you would prefer we did not go ahead with?

**Prof. Orr**—I think it is stretching the mandate to suggest that such a relatively small political promise that was not a major issue, or an issue at all, in the election campaign would mean that this committee, for example, and our body should not say—in the changed circumstances since the election so that we are now talking about possibly capping or banning large-scale organisational donations altogether—that the committee and the houses of parliament should not seriously consider either tax deductibility or, if the government is implacably opposed to it, something similar to encourage small-scale donating such as the United Kingdom's matched funding proposals.

**Mr SULLIVAN**—I beg to differ with you. I think it is important, particularly in the context of recent Australian political history, that every commitment given in an election campaign is followed through.

**Prof. Orr**—Has the Labor Party said that therefore it will not change the laws relating to campaign finance, because they were not taken as a matter of policy to the last election? No. There has been a major crisis in New South Wales and that has led to a reopening of some of these debates and, if we do not change our positions if the context and the facts change—

**Mr SULLIVAN**—Then we return to non-core promises. I do not think the public wants that. I do think the public wants us to clean up problems when they occur, and I agree with you that there is an emerging situation that needs to be dealt with. But I think that this can also stand alone from all other electorate considerations on the basis that it was submitted to the people in the context of an election promise.

**Prof. Orr**—But we say it is very premature to do away with a form of encouraging small-scale donating at the same time as seriously considering, in a few months time, the banning of large corporate and organisational donations. That is going to lead to serious questions as to where parties get the money from and deductibility, or matching funds, is something that needs to be kept in the mix.

**Mr SULLIVAN**—It could very well be put back in the mix later on. I agree with your point that that might not be the cleanest thing to do, but certainly it is an election commitment, it is in a tax bill before us and the tax date is 1 July. I think the reason it is before the parliament right now is to bring it into a full year of tax operations.

**Senator RONALDSON**—Chair, I want to spring to Professor Orr's defence.

**CHAIR**—He does not need your defence.

**Senator RONALDSON**—He is quite right that the Labor Party could change their mind, as did Senator Conroy, Mr Ferguson and Mr McClelland, who not so many years ago were arguing very passionately for a \$1,500 tax deductibility for political donations.

**CHAIR**—I am sure, Senator Ronaldson, that you will tell us all that in the Senate when the Senate considers this. I am interested in evidence today.

**Senator RONALDSON**—Well, I have just had five minutes of a lecture about politics from one colleague.

**CHAIR**—As there are no further questions, I thank Professor Orr for his evidence today. Professor, we appreciate the fact that you put a submission in and were prepared to give evidence about it before the committee. It certainly helps us in our deliberations to have people of your calibre give evidence. If you do have any additional material, you will need to forward it to the Secretary by 9 May. As I have said, we have released all the submissions and they should be on the website. If you do have any particular comments about other submissions, please feel free to put in a supplementary submission. You will be sent a transcript of your evidence to which you can make corrections of grammar and fact.

Resolved (on motion by **Senator Birmingham**):

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 1.02 pm**