7. Political Finance

It is not surprising that money is one of the most critical factors in election campaigns. Access to money has become even more important in Australia in recent decades with the increasing role of electronic advertising, which consumes a significant share of the major parties’ campaign expenditure. Therefore, the ways in which parties may receive and spend money have been the subject of significant public debate. The Coalition and Labor are keenly divided on some aspects of regulation—for example, donation disclosures; however, they act as a cartel in areas where there is joint benefit, such as public funding.

By international standards, Australia is relatively unregulated in the ways political parties and candidates may raise and spend money. Australian jurisdictions have few limitations on who money may be received from, how much may be raised or how much may be spent on election campaigns. In addition to having virtually no limits on the amount that may be raised through private donations, most Australian jurisdictions also provide public funding of parties and candidates, based on their vote at elections.

Many democracies place limits on the influence of private money in electoral contests. In IDEA’s 2003 survey of 111 countries, a majority had donation disclosure regimes, while a significant number (32 countries) placed caps on contributions to parties.1 Partially to compensate for these restrictions, and to limit the influence of private money, there are currently 112 countries (of 196) that provide direct public funding to political parties.2 It is unusual to allow unrestricted levels of private funding while also providing substantial amounts of public funding.

This chapter concentrates on three aspects of political finance in Australian electoral law, which have been the focus of debate and legislative reforms in recent years. First, the origins of public funding and its subsequent growth are examined. Second, the setting of a threshold for disclosures of private donations provides a good example of the major parties legislating for self-interest (and possibly with some ideological basis). Finally, the tax deductibility of donations raises questions of fairness and equity.

This is therefore not an attempt to cover all matters relating to political finance, but instead to explain some of the history of current political finance law and how regulation of political money is decided by those who stand to benefit. For

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1 Reginald Austin and Maja Tjernström, eds. 2003. Funding of Political Parties and Election Campaigns. Stockholm: International IDEA.
2 ACE Electoral Knowledge Network, <http://aceproject.org>
more comprehensive discussions on the role of money in Australian politics, the writings of Joo-Cheong Tham, Graeme Orr and Sally Young provide useful insight.

**Public funding**

The importance of public funding for the fairness of political financing regimes is suggested by the Australian Democratic Audit assessment question ‘is there fair access for [candidates and parties] to the media and other means of communication with the voters’. With a few exceptions, the public funding of parties’ and candidates’ participation and campaigning in elections is a relatively recent democratic initiative, occurring in Australia since the early 1980s.

The arguments for public funding put forward by American political scientist Michael Johnston are that some level of funding encourages electoral competition and strengthens parties both organisationally and for campaigning purposes.\(^3\) Sally Young and Joo-Cheong Tham contend that public funding can provide a way to introduce accountability measures, such as financial reporting and disclosure.\(^4\) Some parties, particularly those in government, are able to attract substantial private funding. Public funding provides a mechanism to cover basic administration and campaign costs for all parties, based on criteria such as registration, meeting reporting deadlines, voting support and party membership. Johnston goes on to argue that while partial public funding is beneficial for the health of a democracy, full public funding can be counterproductive, introducing disincentives for citizen mobilisation and the possibility of corruption.\(^5\)

The introduction of public funding at the Commonwealth level in 1983 changed the nature of electoral competition by providing a guaranteed source of income for parties and candidates who achieve at least 4 per cent of the formal vote. When introduced ahead of the 1984 election, funding was based on the reimbursement of election campaign expenditure, with the rate of funding (per vote) based on the cost of a postage stamp for each of the three years between elections, and indexed to the rate of inflation. This amount (originally 90 cents) was then divided, with two-thirds for House of Representatives votes and one-third for Senate votes. Parties and candidates had to submit expenditure receipts

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for reimbursement from their public funding entitlement. The application of different rates for the House and the Senate was explained by arguing that MPs experienced greater constituency demands than Senators; however, it potentially disadvantaged those parties that targeted Senate elections and thereby gained greater numbers of Senate votes than House votes.

In its first report in 1983, the JSCER stated that the Labor Party and the Australian Democrats were supportive of a public funding system. Labor’s support was based on the argument that elections should be decided on the quality of policies rather than the ability to raise campaign funds. Labor went on to argue that public funding would ‘narrow the differential in the financial resources available to the various competing parties’. The Liberal and National parties were initially opposed to public funding, citing the lack of public support and that public funding would entrench incumbent parties and disadvantage potential new entrants.

In 1995, two major changes occurred to the public funding regime, following recommendations by the JSCEM. The Commonwealth Electoral Amendment Act 1995 removed the need to prove expenditure, thereby changing the nature of funding from a reimbursement to an entitlement. This change broke the direct connection between funding and election campaign costs. Second, the funding rate was substantially increased. There was a 50 per cent increase for House of Representatives votes, from $1.01 to $1.50, and, in a move to equalise funding between House and Senate votes, public funding for Senate votes was trebled from 50.4 cents to $1.50. The rationale put forward during the parliamentary debate for the Senate increase was based on the JSCEM recommendation that House and Senate votes should receive the same level of funding, because ‘as much effort is required to gain a Senate vote as a House of Representatives vote’. While the JSCEM had recommended equal funding, it left unanswered the question of whether funding levels should be increased or simply redistributed equally between the two houses.

The Hansard records show that both the Labor and the Liberal parties strongly supported the changes. In his second reading speech, the Labor Minister for Administrative Services, Frank Walker, referred to JSCEM’s rationale for equalising House and Senate payments, but made no reference to the fact that the rate was being substantially increased, and did not provide a supporting argument for the increase. In a similar vein, Liberal MP Peter Slipper simply stated: ‘The rate will be increased to $1.50 per vote and will be indexed. The Coalition will not be opposing this.’ Apart from Labor and the Coalition, the

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Australian Democrats were the most significant beneficiaries of the increase. Their spokeswoman, Senator Meg Lees, made no reference to the increase in her second reading speech.

In contrast, the Greens received far less public funding during this period and were more vocal in their opposition to the increase. Greens spokeswoman Senator Christabel Chamarette stated that:

The amendments to the bill were not recommended by the joint committee...they were part of a private deal which appeared to be engineered by the Federal Secretary of the ALP and agreed to in letters to the Minister for Administrative Services from the Liberals, the Nationals and the Democrats...Everybody is going to have at least a doubling of their funding.  

As a result, the cost of public funding has substantially increased since the 1996 federal election, as Table 7.1 shows. Due to the funding rate being linked to the consumer price index (CPI), the rate has increased from $1.50 per vote in 1995 to its current (January to June 2012) rate of $2.42. In recent elections, public funding has accounted for about one-third of the total cost of conducting federal elections.

Table 7.1 Public Funding Payments ($ million)

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<tbody>
<tr>
<td></td>
<td>7.81</td>
<td>10.30</td>
<td>12.88</td>
<td>14.90</td>
<td>32.15</td>
<td>33.92</td>
<td>38.56</td>
<td>41.93</td>
<td>49.00</td>
<td>53.16</td>
</tr>
</tbody>
</table>

Sources: JSCEM; AEC.

At the State and Territory levels, three jurisdictions—South Australia, Tasmania and the Northern Territory—do not have public funding. The other jurisdictions also use the 4 per cent threshold for funding, with rates of approximately $1.50 to $1.70 per vote. Funding is provided as either full or partial reimbursement of electoral expenditure, whereas for federal elections, funding is provided automatically, irrespective of expenditure.

In 2005, the JSCEM acknowledged the ability for candidates to profit from the public funding scheme. The committee’s concerns were raised after Pauline Hanson received nearly $200 000 in public funding as a Senate candidate at the 2004 federal election, despite spending only $35 000 on campaign expenses. Labor claimed this was ‘blatant profiteering for personal benefit’. The committee

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did not recommend changes at the time, but in 2011 recommended reverting to a reimbursement-based scheme. The Gillard Labor Government currently (March 2012) has legislation before the Senate to return to a reimbursement of expenditure requirement.

New South Wales has the most progressive funding scheme, with funds also provided for the administration of registered parties ($80,000 per elected member, up to a maximum of $2 million). For registered parties without elected members, funds are available for policy development, based on 25 cents per vote received at the most recent election, up to a maximum $5,000, paid annually. This scheme is in line with the recent electoral funding reforms in that State, which include caps on electoral campaign expenditure and political donations, as well as prohibiting political donations from specific sources: property developers and the gambling, liquor and tobacco industries. The need for such prohibitions highlights the influence that donations can wield and leaves open the question as to what influence legitimate donations might have.

By their nature, public funding schemes ensure that the major vote winners at an election are the major funding recipients. Currently, the major parties—Labor, Liberal and The Nationals—can be relatively assured of a certain amount of public funding, as can the Greens (and previously the Democrats), to a lesser extent. For other parties, particularly new parties, it is not easy to predict whether the 4 per cent threshold in votes, which is required to receive any public funding, will be achieved. It is difficult therefore for such parties to budget for an election campaign. Table 7.2 shows the level of funding received by selected parties and candidates over the past four federal elections.

It can be seen from the table that for most parties, public funding provides a relatively reliable income stream. For parties that experience greater fluctuations from election to election, such as was the case for the Democrats, a drop in voter support can have serious financial implications in planning an election campaign. In the Democrats’ case, their vote dropped for the House of Representatives from 5.41 per cent (2001) to 1.24 per cent (2004), and then to 0.72 per cent (2007). For the Senate, the Democrats’ vote decreased from 7.25 per cent (2001) to 2.09 per cent (2004), and then to 1.29 per cent (2007). The amount received by parties or candidates without parliamentary representation is quite small, as can be expected. This might indicate that the public funding scheme is simply supporting existing parties, rather than new entrants. The growth of the Greens, One Nation and Family First since 1983 is, however, a counterargument to this proposition. The numbers of parties and candidates receiving public funding

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10 Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010.
since 1993, shown in Table 7.3, suggest that there is no significant trend in the number of parties receiving support, but further analysis would be required to assess other factors in the number of parties receiving public funding.

Table 7.2 Public Funding Payments: Selected Parties and Candidates ($ million)

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<tr>
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<tbody>
<tr>
<td>Liberal</td>
<td>14.492</td>
<td>17.956</td>
<td>18.134</td>
<td>21.098*</td>
</tr>
<tr>
<td>Nationals</td>
<td>2.845</td>
<td>2.967</td>
<td>3.240</td>
<td>2.486</td>
</tr>
<tr>
<td>Democrats</td>
<td>2.412</td>
<td>0.008</td>
<td>0.000</td>
<td>0.000</td>
</tr>
<tr>
<td>Greens</td>
<td>1.594</td>
<td>3.317</td>
<td>4.371</td>
<td>7.213</td>
</tr>
<tr>
<td>Family First</td>
<td>-</td>
<td>0.158</td>
<td>0.141</td>
<td>0.407</td>
</tr>
<tr>
<td>Country Liberal Party</td>
<td>0.139</td>
<td>0.159</td>
<td>0.169</td>
<td>0.179</td>
</tr>
<tr>
<td>Pauline Hanson’s One Nation</td>
<td>1.170</td>
<td>0.056</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Pauline’s United Australia</td>
<td>-</td>
<td>-</td>
<td>0.213</td>
<td>-</td>
</tr>
<tr>
<td>Peter Andren MP</td>
<td>0.073</td>
<td>0.079</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Bob Katter MP</td>
<td>0.064</td>
<td>0.064</td>
<td>0.068</td>
<td>0.088</td>
</tr>
<tr>
<td>Tony Windsor MP</td>
<td>0.064</td>
<td>0.090</td>
<td>0.111</td>
<td>0.130</td>
</tr>
<tr>
<td>Nick Xenophon</td>
<td>-</td>
<td>-</td>
<td>0.312</td>
<td>-</td>
</tr>
<tr>
<td>Other</td>
<td>0.789</td>
<td>0.418</td>
<td>0.435</td>
<td>0.336</td>
</tr>
<tr>
<td>Total</td>
<td>38.559</td>
<td>41.926</td>
<td>49.003</td>
<td>53.163</td>
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</tbody>
</table>

* Includes Liberal National Party of Queensland.

Table 7.3 Number of Parties and Independents Receiving Public Funding, 1993–2010

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</thead>
<tbody>
<tr>
<td>Parties</td>
<td>11</td>
<td>8</td>
<td>12</td>
<td>13</td>
<td>10</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Independents</td>
<td>17</td>
<td>12</td>
<td>16</td>
<td>21</td>
<td>15</td>
<td>15</td>
<td>17</td>
</tr>
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</table>

Although the public funding rate was originally calculated on a three-year funding cycle, by-elections held between general elections also attract funding. The cost of this additional funding is currently about $150,000 per by-election (depending on the size of the electorate and results). The by-elections held in the seats of Mayo and Lyne in September 2008 had a combined cost of almost $299,000 in public funding. In December 2009, two more by-elections (Bradfield and Higgins) cost $260,000. The substantial cost raises the question of whether public funding should be provided for by-elections, especially where by-elections are caused by the voluntary resignation of an MP, as was the case in these four examples, and especially as the original premise of public funding was based on postal expenses over a three-year electoral cycle.
In sum, public funding has produced mixed results in terms of fair access to communicate with voters. While the major parties are the significant beneficiaries of the regime, smaller parties have been able to compete and grow, with public funding an important component of their financial support. For the purpose of political parties playing an important role in informed public debate, the NSW reforms that provide funding for parties’ core administrative functions and policy development are refreshing. The primary driver of public funding, however, both in its implementation and in most subsequent amendments, is partisan self-interest. As one Labor politician commented to the author, ‘both the Liberal Party and the Labor Party could see that they were going to pick up an enormous amount of taxpayers’ money for nothing’.

Donation disclosure thresholds

As Ewing and Ghaleigh point out, the concerns of ensuring that political parties are adequately funded and that individuals’ rights to privacy in making donations are protected need to be balanced by the democratic state’s interest in having a political system free of corruption and with voters being able to make informed decisions.\footnote{Keith Ewing and Navraj Singh Ghaleigh. 2006. ‘Donations to Political Parties in the United Kingdom.’ Paper prepared for the Political Finance and Government Advertising Workshop, The Australian National University, Canberra, 25 February, p. 9.} These informed decisions include knowing the causes and interests that a candidate is likely to represent in parliament. With these reasons in mind, there is a strong argument for establishing and maintaining an effective disclosure regime.

Public funding schemes provide an opportunity to introduce accountability and transparency regimes. This is regarded as part of the social contract; if parties and candidates are to receive public money for campaigning purposes, they need to disclose to the public the amounts and sources of private money donated towards the same purpose. In 1983, the Hawke Labor Government introduced donation disclosure legislation, requiring donors and political parties to disclose donations above a specified amount. The threshold for disclosure was originally set at $1000, and increased to $1500 in 1991. The Howard Coalition Government’s 2006 legislation increased the disclosure threshold from $1500 to $10 000, and introduced annual indexation based on the CPI.\footnote{Days after the legislation was passed by parliament, the threshold had already increased to $10 300.} Due to inflation, the threshold currently (to June 2012) sits at $11 900. From the time the Coalition obtained a majority on the JSCEM in 1996, the committee recommended increases to the threshold—of $5000 in 1996 and to $10 000 following the 2004 election. In its submission to JSCEM in 2005, the Liberal Party noted that it would not be realistic to expect that amounts below $10 000 could create an undue influence
on government. The government argued that it is not in the public interest for donations below this amount to be disclosed. The Labor Party strongly opposed the increase to the threshold.

With the change to a Labor government in 2007, and changed JSCEM membership, the committee supported the Rudd Government’s legislation to revert to a $1000 fixed threshold for disclosure. Without sufficient numbers in the Senate, the amendment was not successful; however, with a Labor/Greens majority in the Senate from July 2011, it is now expected to pass. This will bring the Commonwealth in line with most Australian jurisdictions, which have thresholds of $1000–2100.

Individual but related entities (such as members of a family or directors of a company) are currently treated separately under the disclosure laws, as are State and Territory divisions of the same party. For example, a husband and wife could separately donate $10 000 to each of the nine State, Territory and federal divisions of a party—a total of $180 000—without any of the donations being disclosed. Although the ability to donate separately was already in the Act, the increased threshold makes this option more attractive to major donors. Countries such as Canada have managed to place stringent caps on total party donations, so the provision for separate donations appears to be a deliberate legislative loophole that advantages Australian parties with a federal administrative structure.13

Miskin and Baker highlight the impact that the increased threshold could have in monetary terms. In the 2004–05 financial year (an election year), $33.1 million in donations to the major parties was disclosed under the old $1500 threshold. That figure would have dropped to $25.2 million under the new regime.14 That is, an additional $8.1 million would be removed from public accountability, assuming that donating patterns remain the same. It can be expected, however, that political parties have adapted their fundraising and donation strategies, and donors who previously donated up to the old cap are now encouraged to donate up to the new threshold. The combination of the increased threshold and allowing foreign and corporate donations is also a cause for concern, as are the timing of disclosure and the absence of caps on donations or campaign expenditure. These are all areas where Australia falls far behind the practices of countries such as the United Kingdom and Canada. In terms of fairness, the

13 The Gillard Government is proposing in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010 to remove the loophole that allows splitting donations between party divisions, but family splitting will continue to be allowed.
current threshold results in a greater proportion of donations being hidden from voters, which is contrary to the principle of being able to make an informed choice.

The timeline for reporting and disclosing donations is such that donations to registered parties made in 2006–07 for the 2007 federal election were not disclosed until 2 February 2009. The long period between donation and disclosure is a serious concern in terms of accountability and transparency, as media and public interest generally will have moved on from these issues. One of the underlying arguments in favour of a disclosure regime is to allow voters to make an informed choice at the time of an election. If information is provided only retrospectively then voters remain in the dark about what possible influences are affecting a party’s policy platform. Typically, the major parties argue in JSCEM inquiries that more up-to-date disclosure of donations would add an unreasonable administrative burden on parties; however, in these modern times of electronic transactions and Internet access, if a party has the ability to bank a donation, it has the ability to provide that donation information to the public at the same time.

While the Labor and Liberal parties use ideological arguments to put their positions on disclosure thresholds, their real motivations are pragmatic. It is well known that the Labor Party’s major donors are trade unions, and therefore there is little to be lost in disclosing such donations (which often would be disclosed under the higher thresholds anyway). The Liberal Party, however, relies heavily on donations from the business sector, and a lower threshold could frighten off these donors, who might not want to be exposed as Liberal supporters, especially when they might need to deal with Labor governments at either the federal or the State level.

Tax deductibility of political donations

Provisions exist in several countries, including the United Kingdom, the United States, Canada, Italy and Australia, to provide tax benefits for making political donations and contributions. Such schemes typically provide tax credits or treat the contributions as a tax-deductible expense. The reasoning behind this is to encourage political participation and broaden parties’ support bases. It is also viewed as a form of public funding of political parties.

In Australia, tax deductibility for party contributions was introduced in 1991. Prior to 2006, political donations were tax deductible to a maximum of $100
per year, and for individuals only. In 2006, the Howard Government increased this limit to $1500 per year, and extended it to businesses. The government’s argument for this increase was that it would encourage participation in the democratic process, by providing tax relief. In its report on the 2004 election, the Coalition-controlled JSCEM recommended that the limit be increased to $2000, arguing that it would encourage small to medium donations, but the only submissions cited by the report as being in support of such an increase were from the Liberal and National parties. Labor was opposed to the proposal.

A counterargument to the JSCEM’s recommendation for higher levels of tax deductibility is that the ability of people to participate in political discourse should not be related to their capacity to pay. An increase to $1500 skews political influence to the wealthier in society, as not only do higher-earning individuals have greater capacity to make donations, they also receive a proportionately higher (taxpayer-funded) subsidy. Based on the tax scales in place at the time of the reform (2006–07 rates), an individual earning $20 000 per year who made a $1500 party donation would receive a $190 tax rebate. Another individual who made the same donation, but was earning $100 000 per year, would receive a $600 rebate—an additional $410 benefit.15

In early 2008, the Rudd Labor Government introduced legislation to remove tax deductibility for all political donations and contributions. This was a result of Labor’s policy platform of finding budget cuts in government expenditure. A JSCEM inquiry into the amending legislation was highly political, with Coalition members referring to the unrelated Wollongong Council donations scandal as a reason for not supporting the reform. Without the numbers in the Senate, Labor was unable to pass the legislation. Like many proposed reforms in the political finance area, however, the 2011 change in Senate numbers is expected to provide the opportunity for the reform to take place.

While the Labor government is seeking to remove tax deductibility for all donations and contributions, there remain good arguments for retaining a tax incentive for small-scale political activity, such as party membership fees.