

Donations¹

Introduction

“Electoral funding may be inextricably linked to participatory democracy yet it can so easily be construed as a vehicle for both good and evil. Old sayings like, “he who plays the piper calls the tune” rings in ones’ ears but if contributions to political parties are spontaneously given as a true reflection of popular opinion then the electoral outcome that follows such opinion can be seen as an honest and viable action. But the latter is to see the world through the brightest and clearest of spectacles. More often in our modern world we view it through a glass darkly, unable to readily see the shifty eyed intention of many a large donor.”²

In addition

“Participatory democracy is a constantly changing dynamic. There is never a lasting or perfect solution. The ever fertile human brain will seek to turn to advantage whatever system we put in place and in terms of political honesty the current love affair with marketing as the be all and end all of selling the political product has moved the funding of campaigns into dangerous territory.”³

It must also be faced that the present system provides real opportunities for corruption and the temptation to corrupt.

“The process creates a situation where persons who wish to engage in corrupt behaviour are given every opportunity, and the political party concerned becomes indebted to the people who made donations.”⁴

Public Funding –election campaigns

The Accountability Round Table’s starting premise is that the cost of election campaigns should be borne entirely by the State. In support of its position the Accountability Round Table makes the following points;

- the purpose of election campaigning should be to enable voters to go to the ballot box with a reasonably informed view of how they want to cast their vote rather than to sell the political party or candidate.
- as election campaign expenditure has grown, so too has the time that has to be spent raising money by those we elect to govern for us. Such time would be better spent considering the complex policy issues that we face.
- the majority of privately funded donations, whether from corporations or individuals, are a cost borne by the consumer, and one which, in the case of corporations and trade unions, may not necessarily be in accord with the wishes of the ultimate source.
- advertising expenditure by incumbent governments should be subject to rigorous guidelines based on the following principles:
 - material should be relevant to government responsibilities;
 - material should be presented in an objective, fair and accessible manner; and
 - material should not be directed at promoting party political interests.⁵

¹ For a recent overview of political funding see, Joo-Cheong Tham, *Money and Politics*”, University of New South Wales Press; see also, Sawyer, Abjorensen and Larkin, *Australia, the State of Democracy*”, in particular at 108-14, 127-9, 196-7.

² Accountability Round Table 2009 submission to the federal government on its Electoral Reform Green paper.

³ Ibid.

⁴ *Corruption*, above, 46.

⁵ Tham, Joo-Cheong (2010) *Money and Politics: The democracy we can't afford*

- more rigorous standards and monitoring of advertising expenditure by incumbent governments would also release funds for public funding.

The level of private funding from the business community for particular parties has varied according to the views held as to who is most likely to win the forthcoming election. This can be grossly advantageous to the party which is thought likely to win the election and grossly disadvantageous to all the other parties. As to the level of funding, the following should apply:

- a) The level of funding should be sufficient to ensure that parties and candidates can communicate adequately with the voting public. There is no reason to think that current levels of aggregate expenditure resulting from public and private funding are anything but excessive;
- b) In addition to funding advertising, public funding should cover other campaign expenditure such as campaign rooms, preparation of advertising material, pre-poll and postal vote canvassing, and like matters;
- c) There is no reasonable democratic basis for restricting public funding to parties or candidates by reference to the percentage of the vote received. Major parties which achieve a strong electoral would receive disproportionate funding which has the effect of giving the incumbent government parties an unfair advantage at the following election. That anomaly could be addressed by placing a ceiling on the amount received such that the governing party or coalition should not receive more than the Opposition party or coalition e.g. an average of the total entitlements (per vote) that each of the Government and Opposition parties would otherwise receive.

To effectively achieve fairness in the electoral system, limits on campaign contributions should be complemented by limitations on expenditure by or on behalf of candidates and political parties. Accordingly:

- d) Campaign expenditure should be capped to correspond to the level of public funding to which a candidate or party is entitled

To complement the limitations on private donations:

- e) conditions should be introduced into broadcasting licences to require that party campaign information be broadcast as community service announcements.

As to timing, public funding should be provided from the dissolution of the Parliament.

Private Funding

If private funding is to be permitted, it should be limited to membership dues and donations in all forms by natural persons totalling not more than \$1,000 per person in each calendar year to each registered party and candidate. Reference should be made to the Canadian model,⁶ which was recommended at the 2020 Summit. Such funds could be applied to a variety of purposes, for example, administration, research, training of candidates and so on during the period between elections but not during the three months immediately prior to the general election.

⁶ For the details of the Canadian scheme see Sebastian Spano, *Political Financing*, <http://www.parl.gc.ca/information/library/PRBpubs/prb0750-e.htm>.

Any such scheme must be transparent. This requires timely disclosure of donations. With modern technology, disclosure within one working day is simple and should be required. Also critical is the level at which disclosure is required. The recipient or the recipient's agent⁷ should be required to disclose any donation or commitment over \$200⁸ and its original source. Electronic lodgement of the information and verification of it should be mandatory and facilitated. Any donations exceeding a total of \$1000 in a financial year should be forfeited to the Crown.⁹

The issues are complex and difficult. Recently, in New South Wales, a bipartisan Report recommended a system for capping donations. On the other hand, such an approach was considered by the Federal Parliament during this term but it proved impossible to obtain sufficient agreement. If progress is to be made, and all issues considered, including public funding, the funding of political parties needs to be taken out of the political arena and referred to an appropriate independent body for objective analysis and consultation with the entire community, not just the political community. The Australian Law Reform Commission would be a suitable body. It is independent and has a long and distinguished history in handling policy and legal issues and of consultation with the community.

The Accountability Round Table calls upon those standing for election to the Federal Parliament to commit to the establishment of an enquiry by the Australian Law Reform Commission into regulation of the funding of political parties and candidates to achieve equality of access and integrity in our democratic system.

⁷ Re "agent" see Electoral Act 1992 s 209 and 304

⁸ This appears to be the Canadian requirement; Canada Election Act 2000 s 424 in quarterly returns filed within 30 days of the end of the period to which it relates approach and under s 451 and 453 within four months following the polling day re contributions received; see also Spano, above, p.15. For reasons above, we regard the periods specified in the Canadian legislation also as being excessive.

⁹ As provided in Canada Election Act s 405(4)