Democracy in Australia – Electoral donations and campaign finance

Political parties gain much of their electoral campaign resources from donations and varied fundraising activities. The result of this is that the funding available to candidates varies widely, with candidates with the most funds available to them having an advantage.

In 2006, the Howard Government amended the *Commonwealth Electoral Act 1918* to substantially weaken disclosure and source rules on donations to political parties. Disclosure was made necessary only for donations of more than $10,900 annually. The limit was initially $10,000 but rises each year with the CPI. Because state and territory and federal branches of the same party are treated as separate entities when receiving donations, as pointed out by Brian Costar, by 2010, a donor could provide $103,500 a year while remaining anonymous, just by dividing donations among branches of the same party.

There are ongoing concerns that the increasing need for donations means that candidates may be inclined, once in office, to favour donors, or that through donations, donors may 'buy' access to decision makers. Non-Australian individuals, businesses and even governments may donate to political parties, "purchasing access and influence far greater than that of ordinary (Australian) citizens", writes Marian Sawer. She also points out that other democratic countries ban corporate donations, those from foreign interests, or require shareholder approval for company donations while Australia does not.

Regulation of the receipt of donations and fundraising is required in the short term, and, ultimately, reform of the whole system of electoral funding.

International practice

Canadian laws ban corporate spending on political donations and limit election spending. Only people who are citizens and permanent residents may make political dona-tions, these donations are limited to 1,200 Canadian dol-lars, and donations may only be made to candidates or political parties once a year.

Internationally, there are also a range of practices that ensure prompt reporting. The United Kingdom enforces prompt disclosure of political donations. All donations and loans to political parties over 7,500 pounds must be disclosed quarterly, except during an election campaign when disclosures must be made weekly. These details are then published online by the UK Electoral Commission. This is far prompter than in Australia, when disclosure of donations may not occur until well over a year after the election. After the 2010 election, donations were reported as late as seventeen months afterwards.

Software packages are available to record and publish donation information electronically. For example, the New York City Campaign Finance Board requires candidates to maintain an up-to-date list of donations. It maintains a website which updates automatically when candidates enter information using the software package provided.

Election funding reform

Increased election campaign budgets bring increased influence, and there will always be a risk of corruption when parties and candidates rely on donors to provide campaign finance. This risk can only be avoided when there are set limits to campaign spending in place. Canada has operated for several years with limits to the spending of political parties and of candidates. These limits were challenged in the Canadian Supreme Court, but the Court found that these limits preserved freedom of expression by preventing wealthy voices from drowning out other voices.

Australia should move immediately to ban electoral donations from overseas individuals and organisations and move to make disclosure of donations faster and easier. Ultimately, Australia would benefit from tougher restrictions on election spending, as in Canada, to ensure that no candidate can buy a louder voice than others.

Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010

After the 2010 Federal election, Prime Minister Gillard reached agreement with independent Members of Parlia-ment Tony Windsor, and Rob Oakeshott, and with the Greens. These MPs agreed to support a Gillard Gov-ern-ment and in turn the Government agreed to a set of reforms, including the reform of electoral funding. These reforms included lowering the disclosure threshold to $1,000, preventing donation splitting, and hastening dis closure. In October 2010, the Government introduced the Commonwealth Electoral Amendment (Political Dona-tions and Other Measures) Bill 2010. The Bill was passed by the lower house and introduced to the Senate in November 2011.

In late 2010, the Government also agreed with Independ-ents to a national inquiry by a fully representative com-mittee of the Parliament to report during 2011, in order to enable passage of legislation in 2012. This inquiry report was tabled in December 2011. The Government considered the recommendations made in the report and did not revisit the Bill until 2013, when a new replace-ment bill was crafted to take into account some of the recommenda-tions. Controversially, the new Bill included a disclosure threshold of $5000, and a mechanism for increased funding based on primary votes. After public criticism of the Bill, including from within Government, and withdrawal of Opposition support, the Government withdrew the Bill before introducing it to Parliament, leaving the situation leading up to the 2013 Federal elec-tions the same as for the 2010.

The current disclosure threshold is above $12,400, foreign donations are allowed, and the public will not be informed of donations to political parties until 18 months after the election.

Worth noting is the fact that Liberal Minister, Christopher Pyne, contrary to the Liberal Party line, recently called for a ban on all non-individual donations, which would cer-tainly curtail the political influence of big money from cor-porations and third party entities.

In a step backwards, in February 2015, the ACT Legisla-tive Assembly passed the Electoral Act Amendment Bill, removing the $10,000 cap on political donations. The new law, backed by both Labor and Liberals, will also increase public funding for ACT elections from $2 to $8 per vote.

Instead of capping donations, the ACT Attorney-General said the Territory was adopting a policy position that focuses on disclosure and transparency, while putting a cap on how much money can be spent. He was of the view that the $10,000 limit had encouraged donors to cir-cumvent the law. Any donation of over $1,000 will have to be declared during an election period within a short period of time.

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