In this chapter we argue that the present Australian scheme of public funding of election campaigns has not achieved the goals that we would hope to achieve through public funding. Thus the system needs to be modified so that funding is used to secure greater fairness and better deliberation during election campaigns.

In Part 1 of the chapter we set out some of the advantages that could conceivably be secured through a system of public funding of political parties. In Part 2 we examine the current public funding arrangements in Australia. In Part 3 we consider some potential dangers and harms that can follow when a funding system is not carefully targeted, and ask how effective the existing scheme has been in helping to secure the benefits that public funding schemes are supposed to promote. Part 4 proposes some future strategies for reform, and Part 5 is our conclusion.

Part 1: The advantages of public funding

The public funding of election campaigns has a number of possible advantages. It can help secure greater equality between
citizens, promote freedom of speech by increasing the range of persons who have the opportunity to meaningfully exercise that freedom, relieve politicians from the burden of fundraising and prevent corruption.

By giving all those competing for office the resources they need to disseminate their opinions we assist the deliberation about alternatives. Thus public funding serves the free speech values that are so central to democratic life. Of course assistance must be provided in a manner that is reasonably fair, and there must be enough of it so that every candidate is heard. Because it is paid for by all of us, public financing is also less likely than private funding to be corrupting. It provides no reason for politicians to feel obligated to any section of the community or to any powerful individual. If the greater part of the funding is publicly provided, citizens can be confident that all will be assured the same access to office-holders. Thus public funding helps destroy some elements of that pernicious nexus between money and power.

Public funding may also make elections more competitive. If a sufficient amount is provided, it may allow candidates and parties who appeal to voters but have few resources to gain office. Of course this good result will not necessarily follow if the money is simply given to parties based on past performance - as it is in Australia. Nor is it likely to succeed if no restraints are placed on the amount of private money that can be spent. Nevertheless, in a two-party competition, if public funds provide the losers with the resources they need in order to recover and compete effectively at the next election, it can be one of the most effective means we have for weakening the nexus between private funding and incumbency.

Part 2: The current public funding model in Australia

We can learn a good deal about our democracy by looking at the way it is funded. While Australia seems to be in good shape,
so that there is little reason for immediate concern, we argue that its funding practices may need to be reconsidered if one of the two major political parties were to become more dominant. As we show, the Australian practice of providing money raised through general taxes to political parties on the basis of their past success only works well because each of the contending major parties has been able to secure a similar amount of this funding. We conclude that although we may need to provide more public funding to ensure that all challengers are sufficiently resourced, the amount of support given to the competing parties must be based on a different formula or linked within a different regulative framework so that it better serves the goals we have listed as fundamental for effective democracy.

At present, our system of public funding sets no legislative restrictions upon how the parties may spend the public funding they receive – except that the scheme was designed as a strict reimbursement scheme (to reimburse costs expended in contesting the election campaign). When parties run their campaigns, they face no legislative constraints upon either the volume of advertising or the amount that they may spend purchasing political advertising. This is unlike the situation in several other countries. In Canada, for example, parties can purchase airtime for political advertisements but there is a legislative ceiling on the ‘amount which they may spend on campaign ads, and the period during the campaign in which “spot” ads may be broadcast is limited’ (Ward 1995, p. 225).

Public funding of the major parties in Australia: distribution

In contrast to office-holders in the United States, who are constantly seeking to please potential donors, Australian politicians usually succeed in securing their tenure by networking with party colleagues. Until very recently, a good party loyalist in a major party never lost; only those who were forced to stand in marginal seats were at risk. We can describe our system as
party-centred. We have strong parties, and the factional groups within them share power. Indeed, most of our institutional practices, including the way we fund elections, reinforce this party-dominant system. Perhaps this is the reason why there is so little demand for campaign finance reform in Australia. It is not that we have the perfect funding system. Nor is it true that there is insufficient private money in Australia to corrupt our politicians. Rather, it is that donors tend to give to political parties rather than to individual candidates, so there are fewer chances for abuse in terms of graft (buying favours).

But two-party government is only acceptable if there is a well-organised opposition party that is itself capable of governing. Our representative democracy relies on a competition between two rival parties, each seeking to win the right to govern (Schumpeter 1950, pp. 272ff). This is why we should ensure that the rules do not allow the incumbent party or coalition to become confident that it will be systematically re-elected. We must ensure that office-holders work for us and not for themselves or for those that can provide them with enough money to secure a monopoly over political office. For this, they must be exposed to the hot breath of rivals who have an equal chance to secure the resources needed for effective campaigning. Luckily, Australian elections have not been undermined because of resource inequalities. In terms of public funding, our two major parties are competing on a reasonably even field.

Set out below is the reassuring circumstance that we now enjoy:

<table>
<thead>
<tr>
<th>Political party</th>
<th>Total amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Labor Party</td>
<td>$13,959,511.97</td>
</tr>
<tr>
<td>Liberal Party of Australia</td>
<td>$11,488,881.15</td>
</tr>
<tr>
<td>National Party of Australia</td>
<td>$2,321,589.02</td>
</tr>
<tr>
<td>Total Funding</td>
<td>$33,822,589.02</td>
</tr>
</tbody>
</table>

As can be seen from this table, taken from the Australian Electoral Commission (AEC), the current funding formula, which
provides each of the parties with 162.210 cents for each first preference vote they gained in the previous election, is not inhibiting competition between the major parties because they receive almost exactly the same amount of public funding (AEC 1999a). The figures show that this was certainly the case after the 1998 national contest. This equal allocation explains why public funding has not been contentious among the major parties even though it has been available in Australia since the 1984 election.

The parties also raise large amounts from private donors – as reports in the 1989/1999 Disclosure Statements show (AEC 1999b; Crabb & Rollins 2001). Here, the overall amount donated to the Labor Party at State and national level is listed as $31 million, and for the Liberal–National Coalition the figure is $23 million.

Public funding of the major parties in Australia: magnitude

Public funding has been provided in Australia since the 1984 election, with the rate of funding indexed every six months to increases in the CPI. Between 1984 and 1993, these automatic increases were resulting in a rise of about $2 million each election cycle. But in 1995 legislation was introduced to raise the rate of public funding. The effect of this was dramatic – the amount of public funding rose by $17 million between the 1993 and 1996 elections, as shown in Figure 1.

This 54% increase in public funding between 1993 and 1996 allowed the parties to increase their spending on television advertising by 38%. In 1993, before the rise, the major parties spent a combined total of $9,791,342 on broadcast advertising. In 1996, they spent an additional $5.8 million (to total $15,627,576).

This link between spending on broadcast advertising and public funding of elections illustrates a fundamental problem with Australia’s system of public funding. Because there are no limits on the amount the parties may spend on broadcast advertising, the parties have no incentive to cap their spending. And
because public funding rates can be increased by legislation, there is no reason why Australian politicians should not legislate again to increase the rate of public funding so that they may spend more.

The justification for the high increase in public funding in 1995 was that it was necessary to redress the large shortfalls that had been occurring between electoral expenditure and the amount reimbursed by public funding. In 1987, for example, election funding reimbursed only 46% of the expenditure of the Coalition and 45% of the ALP’s electoral expenditure. In 1990, Labor recouped only $5.2 million of its campaign costs from public funding and was left with a debt of $7 million (Ward 1995, p. 222), as shown in Figure 2.

These shortfalls were partly blamed on the introduction of the public funding system, which Gary Gray, former Secretary of the ALP, stated in 1996 had ‘cost Labor and the Coalition about $2 million per year, because some individuals and corporations do not want to be disclosed publicly’ (Gray 1996).
public funding system requires that the details of donations and gifts – including the name and address of the donor – be publicly disclosed through annual returns provided to the AEC.)

Have private donations declined since the introduction of the public funding system? Gerritsen (1995) found no evidence of this in his 1995 report. But because the parties did not disclose their donations before 1984, we cannot deduce very much from this. Suffice it to say that the parties are currently receiving over $20 million each year, which seems to indicate a vigorous system of private donations.

Because the public funding scheme was introduced as a strict reimbursement scheme, designed to reimburse costs expended in contesting the election campaign, the parties must rely on private donations along with membership fees, loans, gifts-in-kind and fundraising activities, to pay for their other ongoing costs. Thus the problem of corruption is not solved. There are also concerns about the impact of public funding on the nature of the parties. Public funding seems to decrease incentives to increase membership and also strengthens the central party
bureaucracies, because control over funding is given to the national party organisations (Gerritsen 1995).

Part 3: How effective has the public funding scheme been?

The two-party system

Although this has not always been the case, public funding is now quite generous – in 1996 the parties recouped 93% of their campaign costs. Although this public generosity does not seem to be causing any serious harm, because each of the major parties gets a similar amount, it is not clear what good purpose it actually serves.

It is very doubtful that it makes the system fairer. No voluntarily imposed restriction on participants in exchange for the public money is demanded. The parties can go on behaving exactly as before – only with more money available. They may collect an unlimited amount of additional private funding and can purchase as much access to electronic media as they choose. Nor do they have to limit the number or the nature of the advertisements they broadcast. It seems that the public money is simply an add-on that allows the competing political parties to spend more on advertising and other electoral purposes than they would otherwise choose to do. If they were forced to raise all the money from private sources, they would probably choose to spend less in these areas. Thus public funding offers little reassurance that the equity problems generally associated with election funding are being addressed in Australia. It may be that the major parties are less beholden to private donors. But they still raise up to $31 million each year from private sources, so the wealthy donors remain crucial to them.

Of course the extra spending provided by the public funding may be a good thing, because the more vigorously elections are fought the better. We need to encourage effective participation, and our processes must try to involve as many people as possible. However, it is not the case that more sophisticated and frequent
advertising necessarily advances deliberative democratic participation. Nor do we necessarily want to encourage manipulation or misleading speech. Nor is the research that the money allows the parties to undertake necessarily a good thing. Do we want candidates and parties to tailor everything they say according to the findings of those who answer questions in focus groups? Less advertising and more grass-roots participation may well be a better means of getting voters to think about issues. But it is not likely that the extra resources provided by public funds will secure this kind of more deliberative outcome. For this, funding has to be combined with restrictions on how the money can be used. We would also need to regulate the way that private funds are spent and introduce spending limits.

It is also doubtful that the public funding makes the system more honest. Australian politicians must still form relationships with big donors who can help them win office.

**Multi-party systems**

Perhaps the public funding in Australia makes the competition in our elections more vigorous by allowing smaller parties to reach a threshold where their voices can be heard. If they can gain 4% of the first preference votes, they will be reimbursed their costs.

But this advantage is secured only by increasing the resources of the major competitors, who will get the lion’s share of the public money available. Thus the way the public funds are distributed reinforces the duopoly that the major parties hold over political office. This problem is compounded by the fact that they also get most of the private funds (AEC 1999b). So while public funding does encourage more competition, this is achieved only at the cost of a structural inequality that makes it difficult for new parties and small parties to succeed.

We must make sure that the way the funds flow to the parties does not favour those who already enjoy the advantages of being in office. Public money should be used to help challengers get their messages across; it should not be used to secure the status quo.
A one-party system

There is also a remote danger that in the future, in some circumstances, the prevailing rules could help to secure one-party dominance. The Australian system is currently experiencing changes that may render it more vulnerable to the corrupting influence of money. The National Party has now been seriously diminished and the Liberal Party must contemplate a similar fate at the next election. The electorate is now more volatile and there is declining allegiance to and identification with the parties (see Young 2001). Another change in Australia is the emergence of a number of smaller parties that are determined to secure a place in the system. People are voting for parties such as the Greens, One Nation and the Australian Democrats.

This makes it relevant to ask: what would happen if one party were to gain a huge victory that left its competitors with only a small percentage of first preference votes (as could happen)? There is a danger that the public provision of resources (to the winner) would then make it more difficult for the various opposition parties to recover. Experience in the United States shows that private funding tends to favour office-holders, because they can reward friends and punish anyone who supports an opponent. This is why public funding is sometimes needed – to ensure that the opposition can compete effectively. However, it is not going to serve this purpose in Australia if the funds merely reinforce the bias that favours incumbents. This is why we need to be vigilant.

Part 4: Strategies for reform

There are a number of strategies that could be used to secure a better result. These would need to be considered carefully, to decide how they should be applied in Australia. The techniques include:

- Take control of campaign finance out of the hands of politicians.
This could be done in Australia by giving more power to the Electoral Commission. A change of this kind is necessary because there is always a risk that politicians will be self-interested when it comes to considering electoral arrangements, and may try to secure advantages for themselves.

- Change the formula for public funding so that it is not so heavily based on past performance.

A change of this kind is needed because arrangements that reward politicians solely on the basis of past success will inevitably favour the better-established parties. However, it is not easy to find a fair solution to the allocation problem, so a change of this kind will not be easy. If we choose to leave the current formula as it is, however, we should try to help weaker competitors by guaranteeing a minimum amount of television access to all candidates. This will require us to:

- Regulate access to the broadcast media during campaigns.

This was the strategy adopted in the 1991 Amendments to the Broadcast Act that were held invalid in Australian Capital Television v Commonwealth (1992). It may be possible to find a formula for allocating broadcast time between candidates that can meet the concerns that many of the Justices articulated in that case.

- Limit the amounts of private funds that can be raised or spent.

In some countries, such as the United States, anyone who accepts public funding must agree to limit their overall spending during the campaign. This is a good idea that should be adopted. However, we should also place limits on the amounts that individuals and groups can give to political parties or candidates. Public funding on its own cannot serve as the panacea for all the problems that arise because of the flow of money into politics.
Conclusion

We have seen that Australia is an unregulated system that seems to be functioning reasonably well. The major parties are able to find the resources they need to compete effectively. As for public funding, this is largely benign, having little impact apart from reinforcing the two-party monopoly that characterises the system. Nevertheless, we did note some problems. The major issues of concern are that public funding:

- has not reduced the major parties' reliance on private donations;
- has promoted the dominance of the major parties;
- is linked to the parties' desire to purchase expensive TV advertising;
- can be easily increased by legislative amendment;
- does not require parties to limit their spending.

Each of these problems can be addressed using the strategies listed in Part 4.

Apart from the problems listed, we also need to press for change because the Schumpeter-type democratic competition that our funding system and other electoral arrangements secure has distinct disadvantages. For one thing, it fails to encourage active participation. We are talking about rival elites competing for the right to govern the nation and to set policy direction. Each side brings up issues that are likely to have salience with electors, who must choose a winner after a set amount of time has elapsed; but most citizens are largely disengaged, even alienated (Young 2000). If we want this to change, and those who are voting for smaller parties seem to be demanding this, we may need to adopt strategies that will help the weaker parties be more competitive. This will require us to change the public funding of electoral advertising and to combine this with effective spending limits.
elements of representative government. Such entrenchment does not characterise all State Constitutions, so it cannot be confidently stated that all State Constitutions provide similar guarantees.

4 See also Seidman and Tushnet 1996, Chapter 6.
5 Professor Lindell (1999) disagrees. It is also arguable that AMFA itself is unconstitutional (Lindell, pp 22–23).
7 The Charter Bill also deals with more issues than government advertising, addressing the issues of a code of conduct for ministers and other parliamentarians, and government appointments on merit.
8 Becker was decided before 1997 amendments to s 113, which increased the available remedies for breach (see below).
9 Section 116(2) (subsequently s 329(2)) of the Commonwealth Electoral Act 1918 (Cth) (subsequently repealed).
12 Billboard advertising is allowed in the UK, and the 1997 image of Tony Blair with ‘devil eyes’ is a memorable example of emotive political scaremongering. The ads were ultimately withdrawn, indicating perhaps a different national political culture.

Chapter 3

1 Which is not to say that there will be no abuse. Some parties in Australia have been accused of making a profit from the public funding – accepting more money than they have chosen to spend (AEC 1999a).
2 To qualify for public election funding, a candidate must obtain 4% of the first preference vote. The number of first preference votes obtained is then multiplied by the rate of payment. This method for calculating public funding clearly favours the major parties – in 1996, the ALP and Liberal–National Party received 88% of all public funding (AEC 1996). In 1998, due to the success enjoyed by minor parties such as the Democrats and One Nation,
the two major parties received only 72% of election funding (AEC 1999a).

3 Ironically, it is the Labor Party rather than the Coalition that poses the most danger because it could gain the support of unions and business. Now that socialist ideals have been firmly abandoned for Third Way approaches, corporations and wealthy individuals are just as happy to work with Labor as with the Coalition. Yet trade unions are still alienated from the Coalition, which they regard as threatening to their interests.


5 In the United States, only presidential candidates are entitled to receive public funding. To qualify for this funding they must agree to limit spending. These limits were set in 1976 at $10 million for the primary season and $20 million for the general election. Cost of living allowances are used to adjust these figures for every presidential election year. The system is explained in Goidel, Gross and Shields 1999, pp. 29–30).

Chapter 4

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1 For example, electoral expenditure for the 1996 federal election for the Australian Labor Party and the Liberal Party was respectively $13.81 million and $13.83 million (Australian Electoral Commission 1997, Appendix 2). Unfortunately, the requirement that political parties detail their electoral expenditure in annual returns to the Australian Electoral Commission has been abolished: Electoral and Referendum Amendment Act 1998 (Cth).

2 In principle, both internal and external funding, being private in nature, pose risks to democracy. Internal funding, however, has not given rise to concern because it is typically assumed that such funding, membership subscriptions being the prime example, are made because the donor subscribes to the political party’s aims. For instance, the definition of ‘gift’ in s 287 of the Commonwealth Electoral Act 1918 (Cth) excludes annual membership subscriptions.
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