



## Dissenting Report—Senator Andrew Murray, Australian Democrats

### Major parties' resistance to change

The Australian Democrats have a long history of activism for greater accountability, transparency and disclosure in political finances.<sup>1</sup> We have raised funding and disclosure issues at length in our Minority Reports on the JSCEM reports into the 1996, 1998, 2001 and 2004 federal elections.

Despite this consistent effort, however, progress in achieving greater accountability in political funding and disclosure has been slow. In many ways, the major political parties have thwarted meaningful change and today, under Coalition control, Senate scrutiny has become less effective.

The few funding and disclosure amendments that have gone through since the disclosure scheme was first introduced in 1984, under the Hawke Labor Government, have not closed the loopholes.

In light of this strong resistance to change, we make no apology for repeating our concerns with the current funding and disclosure scheme.

### Diluting pluralist democracy

Two major trends mark the last ten years:

- a very large increase in the benefits of incumbency paid for by taxpayers, disproportionately benefiting the major parties as a result; and

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<sup>1</sup> A useful reference to our views is 'the dangerous art of giving', *Australian Quarterly*, June-July 2000 Senator Andrew Murray and Marilyn Rock.

- a funding arms race, that while it appears to presently benefit the major parties, is of growing concern to many in those parties.

These developments do not add to the strength and stability of our pluralist democracy. Indeed, the aims of a comprehensive disclosure regime should be to:

- prevent, or at least discourage, corrupt illegal or improper conduct;
- stop politicians being or being perceived to be beholden to wealthy and powerful organisations, interest groups or individuals; and
- protect politicians from pressure being brought to bear on them by 'secret' donors.

In some quarters, resistance to funding reforms is still argued on privacy grounds; that the privacy and commercial confidentiality of donors must be respected.

For those of us who cherish democratic ideals, it is difficult to accept that secrecy is valued more than openness; that political donations are valued over grassroots political involvement; that political equality is a furphy; and that incumbency and influence is what really matters.

This reveals a wide gulf between a central tenet of pluralist theory and its practice. This is the notion that of the multiplicity of groups in society, no one interest group dominates; that political power is somehow fluid and can be accessed by all groups.

However, every time electoral commissions release the annual returns of political parties, the real picture emerges: that of the close nexus between big corporate unions, big corporate business and big corporate politics; of those with independent or corporate wealth purchasing political capital and media political support.

The domination of the rich has become so blatant that although some politicians feel quite uncomfortable about it, no federal, state or territory government or opposition seeks to end it.

## Democrats' funding and disclosure principles

Disclosure proposals can be seen from two perspectives – improving present principles, or establishing new principles. The first should in theory be easiest, but in practice it is not so. For instance, while it is a present principle that the source of donations should be known, there remains great resistance to ensuring that donations from clubs, trusts, foundations, fund-raisers and overseas are publicly sourced.

The Democrats' principal recommendations for reform either build on those already in place or introduce new principles.

Those Democrat recommendations that build on those disclosure principles already in place are:

- that the existing loophole allowing donations made to separate federal, state and territory divisions of the same political party, at values just below the disclosure level, be closed;
- that professional fundraising be subject to the same disclosure rules applying to donations;
- that political parties receiving donations from trusts or foundations be subject to additional disclosure requirements; and,
- that political parties receiving donations from clubs be obliged to return these funds unless full disclosure of the true donor's identities are made.

Those Democrat recommendations that introduce new principles of disclosure into electoral law are:

- that the media or any media entity be prohibited from donating in cash or kind to the electoral or campaign funding of a political party;
- that all electoral and campaign funding be subject to a financial cap, indexed to inflation and controlled by the Australian Electoral Commission (AEC);
- that cash or in kind donations to a political party or its candidates be capped at \$100,000 per annum;
- that large donations (e.g. of over \$10,000) be disclosed regularly (e.g. quarterly) and made public immediately;
- that donations from overseas individuals or entities be banned;
- that donations with 'strings attached' be prohibited;
- that shareholders and members of registered organisations such as trade unions be required to approve donation policies; and
- that the funding and disclosure provisions apply to other elections administered by the AEC.

If ever accepted, these proposals would establish a comprehensive disclosure scheme. They also need to be accompanied by significant improvements in political governance and accountability.<sup>2</sup>

The rest of this dissenting report details these proposals for change.

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2 See Senator Andrew Murray, Supplementary Remarks to the JSCEM Report of the *Inquiry into the Conduct of the 2004 Federal Election and Matters related Thereto*, September 2005, pp. 387-394.

## The role of the media

The value of funding disclosure rests on the premise of the availability of and accessibility to documentation for public scrutiny. This is the role of the media as governmental scrutineer.

Comprehensive public scrutiny can only be achieved if issues such as political donations are covered by the mass media, and if the media campaign for greater integrity.

To this end, Joo-Cheong Tham and Graeme Orr submitted that:

...funding disclosure schemes still serve to put the public, assuming a virile media, on notice of the risk of corruption and undue influence. If armed with such information, independent journalists (and indeed in a truly competitive electoral system, rival parties) will vigorously 'shine a bright light and poke around with a long stick', then there will be a useful antidote against corruption and undue influence. In the context of lazy journalism and lax political morality, however, the information disclosed by the disclosure scheme will by and large be meaningless.<sup>3</sup>

However, this interrelationship between disclosure by the media to the public is potentially undermined according to a 2004 report by the Democratic Audit of Australia.<sup>4</sup> The Audit report notes that the symbiotic relationship the media maintains with government may lead in some cases to reluctance to fully cover political donations for fear of a backlash in government access. They say the result could be reduced public pressure on the government due to lack of scrutiny by the media regarding funding sources and consequentially, reduced transparency.

There have been suggestions by a member of the House of Representatives that members of the media should be required to declare all conflicts of interest that may reflect on their reporting of political matters.

These fears become more important if media concentration accelerates as a result of changed government policies. It is vital that any potential perception of political influence over the media, or vice versa, is avoided.

For this reason, the Democrats' first recommendation is that:

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3 Mr J-C. Tham and Dr Graeme Wood (Submission No. 5 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), p. 22.

4 Tennant-Wood, R. 2004, 'The role of the media in the public disclosure of electoral funding', Democratic Audit of Australia, December 2004.

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## Recommendation 1

**No media company or related entity or individual acting in the interests of a media company may donate in cash or kind to the electoral or campaign funding of a political party.**

### Uncontrolled campaign funding

We believe that democracy is best served by keeping the cost of political party management and campaigns at reasonable and affordable levels. Although in any democracy some political parties and candidates will always have more money than others, money and the exercise of influence should not be inevitably connected.

One step forward in setting a limit on expenditure is to set a limit on donations – to apply a cap, or ceiling. Indeed, such limitations do apply in other democratic systems around the world. The cost of campaigning in Australia, however, is growing exponentially and constitutes a barrier to entry.

Numerous submissions to the Committee's inquiries into funding and disclosure and its inquiries into federal elections have called for the imposition of restraints.<sup>5</sup> There appears to be significant cross-party support for such reform with commentators including Liberal Members Mr Malcolm Turnbull MP and Mr Christopher Pyne MP, the Greens Bob Brown MP and academics Dr Young, Professor Williams and Mr Mercurio, and Mr Tham and Dr Orr. The ALP's supplementary report also alluded to concerns about the level and control of campaign funding.

In their submission to the JSCEM inquiry on the 2004 federal election, Tham and Orr stressed the importance of combining improved disclosure laws with donation caps and expenditure limits, since 'disclosure on its own is a weak

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5 See Mr J-C. Tham and Dr Orr (Submission No. 5 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament); Mr P. Andren, MP (Submission No. 9 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament); Professor G. Williams and Mr B. Mercurio (Submission No. 48 to 2004 Federal Election Inquiry); Senator B Brown (Submission No. 39 to 2004 Federal Election Inquiry); Mr E. Jones (Submission No. 89 to 2004 Federal Election Inquiry); Democratic Audit of Australia (Submission No. 97 to 2004 Federal Election Inquiry); Australian Labor Party (Submissions Nos. 136 and 201 to 2004 Federal Election Inquiry); Dr S. Young (Submission No. 145 to 2004 Federal Election Inquiry); Mr J-C. Tham and Dr Orr (Submission Nos 160 and 199 to 2004 Federal Election Inquiry); Mr M. Turnbull, MP (Submission No. 196 to 2004 Federal Election Inquiry).

regulatory mechanism, and probably merely 'normalises' corporate donations.'<sup>6</sup> Tham and Orr suggest improving disclosure laws to include:

- payments from fundraisers, party conferences and similar events be classified as gifts and that all parties be required to submit gift reports which include the status of all donors; and
- removing delays in the timing of disclosure, by potentially requiring quarterly disclosure statements and even weekly statements during an election period.

For these improvements to be effective, donation caps that limit actual or perceived undue influence by individuals or corporations would also need to be implemented.

Limiting the level of funding for election campaigns is also an issue raised by Professor Williams and Mr Mercurio, to the extent that increased costs of campaigning heavily favours major parties.<sup>7</sup> As Williams and Mercurio state, unrestricted campaign expenditure which is heavily concentrated on advertising has the effect of crowding out minor party voices and is further evidence of a lack of equity in the current system.

In their 'Political Donations' Issue sheet for the 2004 federal election, the Democrats recommended that a cap or ceiling of \$100,000 be imposed on any donation made to political parties, independents or candidates. While this is higher than the caps recommended by others, the Democrats took the view that the new principle of a cap, to even be considered, would need to be at a high level.

Despite the support for placing limitations on funding from both international models and from domestic commentary, there is no recommendation forthcoming from the JSCEM to this end. In contrast, the Democrats do propose a legislated amendment that places an indexed cap on electoral and campaign funding, with the amount to be set and controlled by the AEC:

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## **Recommendation 2**

**All electoral and campaign funding is subject to a financial cap, indexed to inflation and controlled by the AEC. Section 294 of the *Commonwealth Electoral Act 1918* should be amended to this end.**

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6 Mr J-C. Tham and Dr G. Orr (Submission Nos 160 and 199 to 2004 Federal Election Inquiry).

7 Professor G. Williams and Mr B. Mercurio (Submission No. 48 to 2004 Federal Election Inquiry).

### Recommendation 3

**No entity or individual may donate more than \$100,000 per annum (in cash or kind) to political parties, independents or candidates, or to any person or entity on the understanding that it will be passed on to political parties, independents or candidates.**

Ultimately, minimising or limiting the public perception of corruptibility associated with political donations requires a good donations policy that should forbid a political party from receiving inordinately large donations. Of concern is the Government's intention to increase threshold values before disclosure requirements apply. The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005 currently before Parliament will increase the threshold from \$1,500 to \$10,000. The current threshold for disclosure of donations is a generous individual sum.

### Donation splitting

A further problem is the allegation that significant sums have and can be donated without disclosure. For instance, nine separate cheques for \$1,499 can be made to the separate federal, state and territory divisions of the same political party, totalling \$13,491.<sup>8</sup> Under the Government's proposed disclosure scheme, the same principle could be used to write nine separate cheques for \$9,999 for the separate federal, state and territory divisions of the same political party, totalling \$89,991.

In its 1998 Funding and Disclosure Report, the AEC elaborated on the practice of donation splitting:

The AEC continues to witness instances of apparent cases of donation splitting to avoid disclosure ... The donations can be split between family members and a family business and also across the various State and Territory branches of a party, each of which is treated as a separate party for disclosure purposes.

The Act already demands that related companies be treated as a single entity for disclosure purposes. The AEC does not believe that any such deeming provision is possible to overcome the

8 The Australian Electoral Commission's (AEC) 2004 Funding and Disclosure Report noted a number of issues raised in the media following the federal election, including 'the alleged shortcomings of the disclosure scheme (e.g. ... the scheme allows donations to be split between party branches etc)', AEC, 2004, *Funding and Disclosure Report Federal Election 2004*, p. 14. See also Mr P. Andren, MP (Submission No. 9 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament).

scenarios outlined above. The only practical deterrent to donation splitting is to maintain a low disclosure threshold.<sup>9</sup>

The Democrats agree that raising the disclosure level from \$1,500 to \$10,000 will exacerbate the problem of donation splitting and recommend instead that:

#### **Recommendation 4**

**The donations loophole be closed, that allows nine separate cheques to be written at a value just below the disclosure level, made out to the separate federal, state and territory divisions of the same political party .**

### **Hidden funds**

It is essential that Australia has a comprehensive regulatory system that legally requires the publication of explicit details of the true sources of donations to political parties, and the destinations of their expenditure. The objectives of such a regime are to prevent, or at least discourage, corrupt, illegal or improper conduct in electing representatives, in the formulation or execution of public policy, and helping protect politicians from the undue influence of donors.

Some political parties, in seeking to preserve the secrecy surrounding some of their funding, claim that confidentiality is essential for donors who do not wish to be publicly identified with a particular party. But the privacy considerations for donors, although in some cases perhaps understandable, must be made subordinate to the wider public interest of an open and accountable system of government. Further, if donors have no intention of influencing policy directions of political parties, they would not be dissuaded by such a transparent scheme. As Tham and Orr state, 'transparency is viewed as a method of deterring corruption and undue influence directly, or, indirectly, by discouraging large amounts of private funding.'<sup>10</sup>

Submissions referred to the timeliness of reporting as a key factor in facilitating this level of transparency.<sup>11</sup> In Tham and Orr's words, 'there needs to be timely disclosure so that citizens are equipped with the relevant information prior to

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9 AEC, 1998, *Funding and Disclosure Report Following the Federal Election held on 3 October 1998*, p. 14.

10 Mr J-C Tham and Dr G Orr (Submission Nos 160 and 199 to 2004 Federal Election Inquiry).

11 See in particular, Mr J-C Tham and Dr G Orr (Submission No. 5 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament); Dr S. Young (Submission No. 145 to 2004 Federal Election Inquiry); and Democratic Audit of Australia (Submission No. 97 to 2004 Federal Election Inquiry).

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casting their vote.’<sup>12</sup> Agreeing with this, Dr Young submitted that there was a need for ‘rolling updates of who is donating rather than having to wait 12 to 18 months after donations are made.’<sup>13</sup>

The Democrats agree with these submissions about the need for both frequent and timely reporting, particularly with regard to those donations which might feasibly have the greater influence, that is, large donations.

One concern has recently arisen as a result of very large individual donations for the 2004 election campaign, including the \$1 million from Lord Ashcroft of the United Kingdom to the Liberal Party, and those around the time of the campaign, including ones of \$200,000 and \$120,000 from ACT clubs to the Labor Party.

*If a large donation or gift in kind affected a constituency or general election result improperly, you would never know in time for any challenge to the Court of Disputed Returns because donations are only disclosed after the end of the following financial year end. People wanting to challenge an election result because it was allegedly improperly influenced by a donation have only 45 days after polling to get their action started in the Court of Disputed Returns.*

## **Recommendation 5**

**In addition to the existing disclosure requirements applying to Political Parties, Independents and Candidates, any donation of over \$10 000 to a political party should be disclosed within a short period (at least quarterly) to the Electoral Commission who should publish it on their website so that it can be made public straight away, rather than leaving it until an annual return.**

As noted by various submissions to the inquiries, three main sources of funds have essentially been hidden from the disclosure regime currently in operation, namely those derived from fundraising, those from trusts and foundations, and those from clubs.<sup>14</sup>

Mr Andren, MP illustrates the mechanism by which fundraising can be excluded from the disclosure regime:

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12 Mr J-C Tham and Dr G Orr (Submission No. 5 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), p. 17.

13 Dr S. Young (Submission No. 145 to 2004 Federal Election Inquiry), p. 5.

14 See Dr S. Young (Submission No. 145 to 2004 Federal Election Inquiry); Australian Labor Party (Submission No. 136 to 2004 Federal Election Inquiry, and Submission No. 8 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament); Mr P. Andren, MP (Submission No. 9 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament).

...where a person attends an event, at a ticket-price above \$1500, and gains access to senior government ministers, that person may feel this access benefits their business, and is therefore a purchase of services rather than a donation, and therefore no return needs to be lodged.<sup>15</sup>

For this reason, the AEC noted in evidence to the Committee that:

...the concept of 'donor returns' should become 'payment made returns'. If people are expecting to see [fundraising tickets, for example] declared in returns, wipe out the idea of whether people have to think about whether they have got their money's worth. All they have to think about is whether they paid money and therefore whether they have to put in a return. It makes it a much simpler concept to deal with.<sup>16</sup>

In other words, the AEC recommends 'that all payments at fundraising events be deemed by the Electoral Act to be donations or be required to be disclosed anyway.'<sup>17</sup> The Democrats support this recommendation:

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### **Recommendation 6**

**Additional disclosure requirements should apply to Political Parties, Independents and Candidates so that professional fundraising is subject to the same disclosure rules that apply in the *Commonwealth Electoral Act 1918* to donations.**

One of the key screening devices for hiding the true source of donations is the use of Trusts. As a consequence, the Democrats continue to recommend strong disclosure provisions for trusts that provide electoral donations. The AEC has dealt with some of these matters in Recommendations 6-8 of its 1998 Funding and Disclosure report concerning associated entities. The Labor Party has given in-

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15 Mr P. Andren, MP (Submission No. 9 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament). See also AEC (Submission No. 11 to the Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), pp. 8-9.

16 Ms Kathy Mitchell (AEC), *Transcript of Evidence*, 11 May 2004, p. EM21.

17 AEC (Submission Nos 7 and 15 to the Funding and Disclosure Inquiry, 39<sup>th</sup> Parliament). It is noteworthy that the AEC later prioritised this recommendation highly following questions from the Committee in May 2004. Mr Joo-Cheong Tham and Dr Graeme Orr note in their submission that a drawback of this scheme is that it would leave the onus of disclosure on the 'contributor' (that is, the donor) rather than the fund raiser (that is, the party); see Submission No. 5 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament, p. 13.

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principle support to some of the AEC's recommendations,<sup>18</sup> which the Democrats welcome. More recently, the Labor Party has also suggested increasing powers to audit disclosure returns of political parties.<sup>19</sup> This is a sensible and practical solution to a troubling problem and has the support of the Democrats.

### **Recommendation 7**

**Additional disclosure requirements to apply to political parties that receive donations from trusts or foundations. They should be obliged to return the money unless the following is fully disclosed:**

- a declaration of beneficial interests in and ultimate control of the trust estate or foundation, including the trustees;
- a declaration of the identities of the beneficiaries of the trust estate or foundation, including in the case of individuals, their countries of residence and, in the case of beneficiaries who are not individuals, their countries of incorporation or registration, as the case may be;
- details of any relationships with other entities;
- the percentage distribution of income within the trust or foundation; and
- any changes during the donations year in relation to the information provided above.

Another key screening device for hiding the true source of donations are certain 'clubs'. Such clubs are simply devices for aggregating large donations, so that the true identity of big donors is not disclosed to the public.

### **Recommendation 8**

**Political parties that receive donations from clubs (greater than those standard low amounts generally permitted as not needing disclosure) should be obliged to return these funds unless full disclosure of the true donor's identities are made.**

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18 'Electoral Report Vindicates ALP Greenfields Concerns', Media Release, 2 June 2000; See also Australian Labor Party (Submission No. 8 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), p. 2.

19 Australian Labor Party (Submission No. 8 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), p. 2.

## Overseas donations

The AEC comprehensively canvassed the issue of overseas donations in its 1996 Funding and Disclosure Report. Since then, it has consistently repeated its recommendation:

that donations received from outside Australia be either prohibited, or forfeited to the Commonwealth where the true original source of that donation is not disclosed through the lodgement of disclosure returns by those foreign persons and/or organisations.

While the AEC asserted that an outright ban ‘would have negligible impact upon the donation receipts of political parties or candidates’, it submitted that the option of making overseas donations conditional upon full disclosure, including by the overseas entity or entities, ‘would place an obligation upon overseas donors to comply with Australian disclosure laws ... without resolving the problem of trying to track and prosecute donors who are overseas.’<sup>20</sup>

In 2004-05 there was the massive and alarming \$1 million donation the Liberal Party received from British billionaire, Lord Michael Ashcroft. As the largest single donation from an individual in Australian political history, we are right to ask just what did this donation actually buy – friendship and gratitude, or access and influence? Not even very rich people part with a million dollars easily. In fact, this donation would have been illegal in Britain because of that country’s ban on foreign donations.

In the last seven years, foreign donations totalling \$2 million have come in from the Channel Islands, New Zealand, Sweden the Philippines, Great Britain, Lichtenstein, Germany, China, Hong Kong, the USA, Japan, India, Fiji and Taiwan.

Table 1 also indicates that the distribution of overseas donations to Australian political parties is skewed towards the major parties and the Liberal Party in particular (see also Attachment A for a detailed list of party funds from overseas).

Table 1. **Funds from overseas sources, 1998-99 to 2004-05 (party totals)**

<b>Party</b>	<b>Amount (\$)</b>
Liberal Party	1 557 804
Australian Labor Party	229 779
The Greens	170 564
Citizens Electoral Council	7 110
Australian Democrats	2 200
<b>Total</b>	<b>1 967 457</b>

Source *Donors or associated entity returns, and party returns, on AEC website, 1998/99 to 2004/05*

20 AEC (Submission No. 11 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), p. 27.

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It is not acceptable to allow any foreign influence in our domestic politics.

We have no problems with donations from Australian individuals living offshore, and they should be permitted to continue.

There is some precedent for banning overseas donations. Canada, New Zealand, the USA and the United Kingdom all ban foreign donations to domestic political parties.

Yet despite the AEC's concerns and the precedent set in other countries, the JSCEM has not attended to the contentious issue regarding the question of political parties receiving large amounts of money from foreign sources – both entities and individuals.<sup>21</sup>

In fact, in 2004, the major parties rejected the Democrat-sponsored amendment to the Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004 intended to prohibit foreign donations, but allow those made by Australians living abroad.

The fundamental principle of Australian electoral funding law is that the AEC must be able to verify the nature and source of significant political donations. Offshore based foundations, trusts or clubs or individuals funded from tax havens making political donations to Australian political parties are a real danger, because those who are behind those entities are often hidden and beyond the reach of Australian law. Although foreign entities with shareholders or members are more transparent, none of these entities are capable of being audited by the AEC. By banning donations from overseas entities and closing the loophole, this problem is significantly mitigated.

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## **Recommendation 9**

**Donations from overseas entities must be banned outright. Donations from Australian individuals living offshore should be permitted.**

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21 The Australian Labor Party recently stated its opposition to overseas donations, see Submissions Nos 136 and 201 to the 2004 Federal Election Inquiry.

## Conflicts of interest

In most cases, donors appear to make donations to political parties for broadly altruistic purposes, in that the donor supports the party and its policies, and is willing to donate to ensure the party's candidates and policies are represented in Parliament. Nevertheless, there is a perception (and probably a reality), that some donors specifically tie large donations to the pursuit of specific policies they want achieved in their self-interest. This is corruption.

The Democrats have therefore consistently argued against donations with 'strings attached'. In considering this proposal, the AEC submitted that while certain enforcement difficulties could arise:

...there may still be value in having a broad anti-avoidance clause if it deters donations with 'strings attached'. Obviously the definition of that concept - eg access, favours - should be clear in any legislation.<sup>22</sup>

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### **Recommendation 10**

**The *Commonwealth Electoral Act 1918* should specifically prohibit donations that have 'strings attached.'**

The practice of companies making political donations without shareholder approval and without disclosing donations in annual reports must end.<sup>23</sup> So must the practice of unions making political donations without member approval. It is neither democratic nor is it ethical. Shareholders of companies and members of registered organisations (or any other organisational body such as mutuals) should be given the right either to approve a political donations policy, to be carried out by the board or management body, or the right to approve political donations proposals at the annual general meeting. This will require amendments to the relevant acts rather than to the Electoral Act.

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22 AEC (Submission No. 199 to the 2004 Federal Election Inquiry), p. 8.

23 See Mr M. Doyle (Submission No. 6 to Funding and Disclosure Inquiry, 40<sup>th</sup> Parliament), p. 2.

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**Recommendation 11**

**The Corporations and Workplace laws be amended so that either:**

- a) Shareholders of companies and members of registered organisations (or any other organisational body such as mutuals) must approve a political donations policy at least once every three years; or in the alternative**
- b) Shareholders of companies and members of registered organisations (or any other organisational body such as mutuals) must approve political donations proposals at the annual general meeting.**

Under the Registered Organisations schedule of the Workplace Relations Act, elections are conducted under the auspices of the AEC. It would seem self evident, in the public interest and for the same reasons, that the same provisions governing disclosure of donations for political organisations should apply to industrial or other organisations for whom the AEC conducts elections.

Controversy sometimes attends union elections. Trade unions are an important institution in Australian society and union elections have become far more expensive to campaign in today than ever before. Many people and organisations contribute to union election campaigns. As for political elections the public and members of those unions in particular should have the right to know the source of any campaign donations above a minimal amount.

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**Recommendation 12**

**Where the AEC conducts elections for registered and other organisations, the same provisions governing disclosure of donations for political organisations should apply.**

## The Government's proposed changes

On 8 December 2005, the Coalition Government introduced the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005. The Democrats consider the changes proposed in this Bill to be in the wrong direction. The Coalition Government's intention to raise the threshold for disclosure from \$1,500 to \$10,000 can only lead to even more secrecy and hidden influence.

Moreover, the Coalition's plans to increase the tax-deductibility of individual donations to an indexed \$1,500 is offensive, as the Government is proposing to give political parties a better tax deductibility deal than it gives to community organisations.

The quest to attract more and more money just keeps growing. Even though the public funding of elections was introduced to address problems of corruption and unfair competition, large private donations continue to grease the wheels. That is why donation caps must be applied to limit the escalating cost of modern democracy.

The ever-escalating costs associated with running US-style election campaigns, as well as the organisational facets of political life, means more and more finance is required, in ways that can threaten the integrity of our democracy.

As long as this powerful mix of business, unions, money and politics remains loosely regulated, Australian democracy will continue to be undermined. Corruption is already a problem. It must not become systemic.

Back in 1989, on his retirement, the then Commonwealth Electoral Commissioner, Dr Colin Hughes, remarked that the integrity of the electoral system was *'teetering on a knife edge in a climate of political corruption.'*

Sadly, it has got worse. The controversy over political finance continues. Corruption exists, the moneyed buying access or policy favours, or rewarding policy stances; or even in local government apparently, rewarding politicians who approve development applications.

We must continue to hope that vital funding accountability measures will be introduced. That can only happen with sustained public pressure.

Politicians and political parties must be protected from the undue influence and patronage of donors. Without that the integrity of our democracy is at risk.

# Attachment A

Table 1 Party funds from overseas sources

Year	From	To	Amount (\$)
1998/99	W.S Cairns Guernsey, UK	Liberal Party, WA Division	5 000
1998/99	Michael Esdaile West Auckland, NZ	Citizens Electoral Council of Australia	5 250
1998/99	Todizo Pty Ltd (no address, but a major shareholder in a NZ company)	Liberal Party, NSW Division	2 000
1999/00	Green Forum Foundation Stockholm, Sweden	Australian Greens	19 438
1999/00	B. Salizar Manila, Philippines	ALP, NSW Branch	25 000
1999/00	UK Conservative Party 32 Smith Square, London, UK	Liberal Party, National Secretariat	5 950
2000/01	Fondation du Sauve Vaduz, Liechtenstein	Australian Greens, National	9 780
2000/01	Heinrich Boll Foundation Berlin, Germany	Green Institute, Tasmania	99 622
2000/01	International Democrat Union 32 Smith Square, Westminster, UK (same address as UK Conservatives)	Liberal Party, National Secretariat	3 301
2000/01	NZ National Party Wellington, NZ	Parakeelia Pty Ltd (same address as Liberal Party's National Secretariat)	166 975
2000/01	Swedish Green Forum Foundation Harnosand, Sweden	Australian Greens, National	20 413
2001/02	David Argyle Sichuan Province, China	Liberal Party, Qld Division	2 000
2001/02	Chen Kang Hong Kong	ALP, Qld Branch	9 586
2001/02	Flextronics San Jose, California, USA	Liberal Party, Qld Division	2 000
2001/02	Lucent Technology Hong Kong	Australian Democrats, National	2 200
2001/02	J. Mackay Gill	Liberal Party, Vic Division	1 948

New York, NY, USA			
2001/02	Green Forum Foundation Harnosand, Sweden	Australian Greens, National	18 453
2001/02	Alastair Walton Hong Kong	ALP, SA Branch	10 000
2001/02	Zhang Ziaojing Hong Kong (same address as Chen Kang, above)	ALP, Qld Branch	9 769
2002/03	Michael Esdaile West Auckland, NZ	Citizens Electoral Council, National (8 donations)	1 860
2002/03	Hatco Corporation New Jersey, USA	ALP, NSW	17 674
2002/03	Icon Productions LLC Santa Monica, USA	Liberal Party, NSW	8 359
2002/03	Dr Kazumasa Ikoma Hyogo, Japan	Liberal Party, Vic	14 000
2002/03	NZ National Party Wellington, NZ	Parakeelia Pty Ltd (same address as Liberal Party's National Secretariat)	43 742
2002/03	Shimao Holdings Co Ltd Hong Kong	ALP, NSW Branch	100 000
2002/03	United States Greens Washington, DC, USA	Australian Greens, National	2 858
2003/04	Paul Anderson, Charlotte, NC, USA	500 Club (same address as Liberal Party, Vic)	1 650
2003/04	Beijing Austchina Technology, Beijing, China	ALP, NSW	5 000
2003/04	Government of India Tourism Office, Sydney	Liberal Party, Qld	2 000
2003/04	Richard Hains, London, UK	Liberal, NSW	25 000
2003/04	Leader of the Opposition, Wellington, NZ	Parakeelia Pty Ltd	39 324
2003/04	NZ National Party, Wellington, NZ	Parakeelia Pty Ltd	43 333
2003/04	Vomo Island Resort, Fiji	ALP, NSW	5 000
2004/05	Lord Michael Ashcroft, KCMG House of Lords, London	Liberal Party, National	1 000 000
2004/05	Beijing Austchina Technology, Beijing, China	ALP, NSW	8 750
2004/05	Betfair-Tse (International) Ltd, London, UK	ALP, NSW ALP, Victoria Liberal Party, National Liberal Party, NSW	5 000 5 000 5 000 5 000
2004/05	Christmas Island Club, Christmas Island	ALP, NT	10 000
2004/05	Mr Timothy Dattels, Walnut Street, San Francisco, USA	Liberal Party, NSW	7 059
2004/05	Mr Timothy Dattels, Sacramento Street, San Francisco, USA	Liberal Party, NSW	7 104
2004/05	Kingson Investment Ltd, Guangzhou, China	Liberal Party, NSW	49 981
2004/05	Kingson Investment Ltd,	Liberal Party, NSW	19 981

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E. Kowloon, China			
2004/05	Leader of the Opposition, Wellington, NZ	Parakeelia Pty Ltd	36 666
2004/05	NZ National Party, Wellington, NZ	Parakeelia Pty Ltd	39 999
2004/05	Skycity Darwin, Auckland, NZ	NT CLP	10 000
2004/05	Mr G Stevens, California, USA	Liberal Party, NSW	2 682
2004/05	TSE International Ltd, London, UK (miskeyed in returns as TSA)	ALP, National	5 000
		Liberal Party, SA	5 000
		Liberal Party, NSW	2 750
2004/05	Yu-Hueu, Dr Chang, Taipei, Taiwan	ALP, Qld	12 000
2004/05	D & M Yun Klein, Hong Kong	ALP, WA	2 000

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Source Australian Electoral Commission, Funding and Disclosure Records, On-line records for 1998-99 to 2002-03

