Issues Paper – Political Donations

Panel of Experts
Dr Kerry Schott (Chair)
Mr Andrew Tink AM
The Hon John Watkins

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Chapter 1: Context

For the past six years the citizens of New South Wales have seen the Independent Commission Against Corruption (ICAC) investigate numerous cases of corrupt conduct by State and local government politicians. What has been unusual in the ICAC inquiries is the extent of the alleged corruption and its seriousness. Corruption has not been isolated to a single politician. Both major parties – Liberal and Labor – have had many Members of Parliament appearing before ICAC to face corruption allegations.

The ICAC has alleged that systematic efforts have been used by elected politicians for private gain. Labor politicians have been investigated about alleged corrupt dealings involving the grant of retail licenses for Circular Quay cafes, the award of coal mining exploration licenses and attempts to award a major water supply business partnership. Many millions of dollars were involved.

On the Liberal side, recent ICAC investigations have exposed evidence of coordinated breaches of election funding and disclosure laws. ‘Dirty tricks’ appear to have been regarded by some candidates and their party organisers as normal. In both parties, flouting the law for private gain appears to have been countenanced to varying degrees.

Conducting elections in New South Wales without corruption clearly faces some serious challenges. The knowledge that money and resources help win elections has led to an ‘arms race’ in fundraising. For some, an election campaign is a quest for power that ranks above all other considerations. In addition, some politicians appear to have used their public office to favour associates and build private income and wealth for themselves. This behaviour constitutes a serious breach of public trust and threatens the legitimacy of elections in this State.

This situation has led to Premier Baird appointing this Panel to investigate options for long term reform of political donations laws in New South Wales. The focus is on:

- Whether it is possible and advisable to introduce full public funding of election campaigns?
- If full public funding is not appropriate should more public funding be available for election campaigns?
- What limits should be placed on political donations?
- Should election campaign spending be constrained?
- What other reforms should be introduced to improve fairness and transparency?

The Panel members are Dr Kerry Schott (Chair), the Hon. John Watkins, and Mr Andrew Tink AM. The Panel members have been appointed under Letters Patent issued by the Governor.
Chapter 2: Overview of NSW Election Funding Regime

New South Wales holds fixed term elections every four years. Political parties and candidates receive public funding to cover part of their campaign expenses in the six months leading up to an election. Private finance funds the remainder of their election costs.

A State election in New South Wales costs about $90 million to conduct. This amount includes about $40 million spent by the NSWEC on polling places, ballot papers and so on. The remaining $50 million is spent by political parties and candidates on the election campaign and other electoral expenditure over the four year period between elections.

Public funding

Public funding for election campaigns is available to all parties and candidates who receive four percent of first preference votes, or who are elected to Parliament. Public funding is also provided in the four years between elections to fund administrative costs and policy development by political parties and independent members.

Parties and candidates are required to pay their election costs up front, and are reimbursed up to 75 percent of the cost of their election campaigns. Public funding can only be provided for ‘electoral communication expenditure’ including spending on media advertising, election material and campaign staff in the six months leading up to an election. Parties and candidates cannot receive public funding for other types of more general campaign expenditure such as travel and accommodation and campaign research.

Private funding

Political donations are subject to a number of restrictions. Donations can only be made by individuals on the NSW, federal or local government electoral roll or entities with an Australian Business Number. Donations from property developers are banned as are donations from the tobacco, liquor and gambling industries.

There are caps on the amount of money that can be donated. Donations from a single source are capped at $5,700 annually for donations to parties and groups, and there is a $2,400 cap for donations to candidates, elected members and third-party campaigners.

Expenditure limits

There are caps on the amount of money that can be spent on election campaigns. Expenditure caps are intended to keep election campaign costs in check and to retain a level of equality between the spending of all parties and candidates.

The expenditure caps apply to parties, groups, candidates, elected members and third-party campaigners. The caps apply to all types of electoral expenditure incurred in the six months leading up to an election.

Disclosure

There are disclosure obligations to provide transparency around political donations. Recipients are required to make annual disclosures of donations above $1,000. Major political donors are also required to make annual disclosures.
Penalties and compliance

Breaches of election funding law can trigger a range of compliance and enforcement measures. When investigating suspected breaches, the EFA can compel production of financial records and documents and compel answers to questions. The ICAC also has a broad jurisdiction to investigate allegations of corrupt conduct involving election funding offences.

There are various consequences for non-compliance with the law. Successful prosecutions for election funding offences can result in penalties ranging from $2,200 to $22,000 and two years’ imprisonment. More minor offences can be dealt with by penalty notices with amounts payable ranging from $55 to $2,750.

In addition, if a person accepts an unlawful payment, the EFA can reclaim the payment as a debt due to the State. Double the amount can be claimed if a person knowingly accepts the unlawful payment.
Chapter 3: Terms of Reference

The Panel, commissioned by the Governor under Letters Patent, is to consider and report to the Premier by 31 December 2014 on options for long term reform of political donations, including:

1. Whether or not it is feasible and in the public interest given all considerations (including legal, constitutional and others), to provide full public funding of State election campaigns.

2. What is the appropriate level to cap the expenditure on State election campaigns and what methodology should be utilised to determine that cap?

3. If full public funding of State election campaigns is to be provided:
   (a) what measures can be put in place to ensure the integrity of public funding;
   (b) what is the appropriate regulation of third party campaigners (such as peak bodies, companies or industrial organisations) to run political campaigns and the impact of full public funding on them;
   (c) what is the impact on minor parties and independent candidates; and
   (d) what is the level of public funding that would be required?

4. If full public funding of State election campaigns is not to be provided, what models are recommended, taking into account issues including:
   (a) what is the appropriate level of caps on political donations;
   (b) what measures can be put in place to ensure that any caps are effective;
   (c) what is the appropriate regulation of third party campaigners (such as peak bodies, companies or industrial organisations) to run political campaigns and the impact of any proposed models on them;
   (d) what is the impact on minor parties and independent candidates; and
   (e) what is the level of public funding that would be required?

5. In considering all reform options, the Panel should consider:
   (a) what controls should apply to the making of donations, such as
      (i) whether or not particular entities or groups of donors should be excluded;
      (ii) whether prior approval of a majority of members of a corporate entity or other organisation is required;
      (iii) Any limitations or restrictions on such political donations; and
   (b) the appropriate frequency and timing of disclosure obligations under election funding laws.

6. Whether the penalties for contravening provisions in the Election Funding, Expenditure and Disclosures Act 1981 (NSW) are commensurate with the nature of the offence. This should include advice on penalties that could apply to donors, intermediaries or recipients of unlawful donations.

7. Any amendments to legislation to ensure that limits on political donations and disclosure requirements cannot be avoided through the use of artificial structures or other means.
8. Any other matters relevant to political donations.

In proposing options for reform in its report, the Panel is to have regard to:

(a) international practices, and their applicability to a Westminster system;
(b) the compatibility of any proposed changes with democratic principles;
(c) the potential for any proposed changes to improve the accountability, integrity and quality of government;
(d) any risks or negative consequences of any proposed changes for the accountability, integrity and quality of government; and
(e) constitutional constraints, including those identified by the High Court in *Unions v State of New South Wales* [2013] HCA 58.

The Panel is ultimately to consider the best way to remove any corrosive influence of donations in New South Wales.
Chapter 4: Basic Objectives

While the Terms of Reference are clear, the Panel considered it important to recognise the basic objectives behind these considerations. At one level the questions about caps on election expenditure and rules about political donations are simple. And funding can be either public or private or both.

But closer examination suggests that most changes to the regulation of political donations and expenditure cause impacts on other parts of the electoral system. A constraint may address one issue but will probably give rise to other concerns.

The complexity of these issues is reflected in the fact that no jurisdiction can claim to have addressed the problems of election funding satisfactorily. Improvement is possible but it is naive to think that future changes will not be required.

New South Wales has had partial public funding of its election campaigns since 1981. When the Wran government made this decision it noted that:

- election campaigns should involve some system of public funding;
- political parties are the essence of parliamentary democracy and it is parties that provide the basis of stable government; and
- the party-political process should be sustained by direct financial aid and assistance in kind subject only to the proviso that parties act within the law.

This approach formed the initial foundation of the current system in New South Wales.

In more recent times, in New South Wales and elsewhere, there has been a change of emphasis. The first difference is a more direct concern about corruption and conflicts of interest in political life. This matter is now given a higher priority.

The second difference is the identified need to encourage broader democratic principles reflecting concerns about recent declines in party membership and general cynicism and distrust of political institutions. While there is no doubt about the strength of NSW democracy it is the case that Members of Parliament do not always have the respect and esteem of the community.

Finally, recent legal cases have thrown a focus on the protection of rights and freedoms within a democracy. Minor parties and independent candidates should be treated fairly, and the regulation of political donations and other political activities should recognise the rights and freedoms of individuals and institutions.

On the basis of these broader concerns, and the initial foundations of political funding in New South Wales, the Panel has adopted the following objectives for its review of political donations:

- The prevention of corruption and conflicts of interest.
- Ensuring adequate funding for political parties and candidates.
- Equality of opportunity and fair and lawful competition for political office.
- Respect for the nature and diversity of party structures on the proviso that political parties act within the law.
- The protection of democratic rights and freedoms.
Part II – Caps on Electoral Expenditure

Chapter 5: Background

Over the four year period to 30 June 2013, which includes the 2011 State election, about $50 million was spent by political parties and candidates on ‘electoral expenditure’. This is defined as money spent on promoting or opposing a party, or the election of a candidate or candidates, or on influencing voting at an election. The caps on expenditure only apply to ‘electoral communication expenditure’, which is a narrow subset of electoral expenditure. Electoral communication expenditure covers spending on media and internet advertisements, election material, and staff engaged in election campaigns.

The caps are also limited to the six-month period before the election. It is unlawful for a party, group, candidate or third-party campaigner to incur electoral communication expenditure in the six-month period leading up to an election that exceeds the applicable cap on electoral communication expenditure. The expenditure cap is adjusted at each election for inflation over the preceding period.

The caps on electoral communication expenditure that will apply in the lead up to the 2015 State election are set out below. The expenditure limit for a party that endorses candidates in all 93 districts in the 2015 State election will be about $9 million.

<table>
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<tr>
<th>Electoral communication expenditure incurred by:</th>
<th>Monetary value of cap</th>
</tr>
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<tbody>
<tr>
<td>A registered political party endorsing candidates for the Legislative Assembly only</td>
<td>$111,200 x number of electoral districts in which a candidate is endorsed.</td>
</tr>
<tr>
<td>A registered political party endorsing candidates for the Legislative Council and between 0 and 10 candidates for the Legislative Assembly</td>
<td>$1,166,600</td>
</tr>
<tr>
<td>A group of unendorsed candidates for the Legislative Council</td>
<td>$1,166,600</td>
</tr>
<tr>
<td>An endorsed candidate for the Legislative Assembly</td>
<td>$111,200</td>
</tr>
<tr>
<td>An unendorsed candidate for the Legislative Assembly</td>
<td>$166,700</td>
</tr>
<tr>
<td>An ungrouped candidate for the Legislative Council</td>
<td>$166,700</td>
</tr>
<tr>
<td>A candidate for the Legislative Assembly (by-election)</td>
<td>$222,300</td>
</tr>
<tr>
<td>A third-party campaigner</td>
<td>$1,166,600 if registered before capped expenditure period. $583,300 in any other case.</td>
</tr>
<tr>
<td>A third-party campaigner (by-election)</td>
<td>$22,300</td>
</tr>
</tbody>
</table>
Parties and third-party campaigners are subject to an additional cap (within the overall cap) for electoral communication expenditure incurred for an election in a particular district. For the 2015 State election, the additional cap is $55,600 per district for parties and $22,300 per district for third-party campaigners.
Chapter 6: Issues

Reasons for caps

Expenditure caps put a ceiling on the financial resources required to contest an election. They are designed to address what Senator John Faulkner has described as “the spiralling cost of election campaigns which are creating impetus for… a campaign fundraising arms race”. Expenditure caps are also thought to promote fairness between electoral contestants, and appear to have been effective in constraining spending in the lead up to the 2011 State election when compared to the 2007 election.

Size of the caps

There are mixed views about the current levels of the caps. The major parties believe that the caps strike the right balance between controlling campaign costs and allowing parties and candidates to communicate with electors. The minor parties, on the other hand, tend toward the view that the existing caps are too generous and should be lowered in the interests of levelling the playing field and reducing the influence of money on electoral outcomes.

All third-party campaigners that incurred electoral communication expenditure for the 2011 election spent only a fraction of their $1,050,000 expenditure cap. Dr Tham concluded that, “the caps… did not constrain … third-party campaigners in the last State election”.

Scope of the caps

The expenditure caps only apply to ‘electoral communication expenditure’ incurred during the six-month lead up to an election. This includes spending on media and internet advertisements, election material, and staff engaged in election campaigns. Other items of legitimate electoral expenditure such as candidate travel and research are not caught by the caps.

There is a view that caps should apply to all electoral expenditure. First, it has been suggested that the distinction between ‘electoral expenditure’ and ‘electoral communication expenditure’ is superficial. The purpose of the caps, to end the campaign fundraising arms race, is thus undermined. The limited scope of the cap, it is also argued, creates unnecessary red tape for parties and candidates, and makes enforcement of the caps more complex.

The narrow scope of the cap may also encourage political parties to change their spending patterns, both in terms of what expenditure they incur and when they do so. In the 2011 State election, the campaign period may have been prolonged because the major parties spent significant amounts on electoral communication expenditure before the start of the capped six-month period.

The distinction between ‘electoral expenditure’ and ‘electoral communication expenditure’ also has implications for the public funding entitlements of parties and candidates.
Chapter 7: Discussion Points

- Should the caps apply to all electoral expenditure as opposed to just the subset of electoral communication expenditure?
- Should the caps be set near the cost of an election for a major party?
- Is the current capped expenditure period of six months prior to the election appropriate?
- Do the current caps on electoral communication expenditure achieve their intended aims? Do they limit the campaign funding arms race? Do they level the playing field for major and minor parties? Do they reduce incentives for corruption?
- Having regard to the High Court’s decision in the *Unions NSW* case, how should electoral expenditure by associated entities of political parties be regulated without breaching rights and freedoms?
- Do the tighter limits on electoral expenditure in New South Wales, when compared to other jurisdictions, encourage dubious schemes to avoid NSW law?
Part III – Public Funding

Chapter 8: Background

New South Wales was the first Australian jurisdiction to introduce partial public funding of election campaigns. In 2010 the partial public funding for parties and candidates was increased to further offset the impact of caps and bans on political donations. It was also an attempt to make the new scheme less vulnerable to constitutional challenge. The 2010 changes also imposed limits on campaign expenditure, and as noted earlier, are intended to ensure that public funding is not used wastefully and does not fuel increased campaign spending.

Design of public funding scheme

Public funding in New South Wales occurs through three separate funds: the Election Campaigns Fund, the Administration Fund and the Policy Development Fund.

The Election Campaigns Fund reimburses political parties and candidates for their expenditure during an election campaign. To be eligible for payments, Legislative Assembly candidates must receive at least four percent of first preference votes or be elected. Ungrouped candidates in a Legislative Council election must receive at least four percent of first preference votes or be elected. Parties must receive at least four percent of first preference votes in those districts in which they endorse candidates. Parties or groups not endorsing Legislative Assembly candidates must receive at least four percent of first preference votes in a Legislative Council election or have a member elected to the Council.

Eligible parties and candidates are reimbursed for their actual electoral communication expenditure in accordance with a diminishing sliding scale. Reimbursement reduces as the spending of a candidate or party approaches the expenditure limit. This sliding scale is intended to discourage spending up to the limit, thereby reducing the overall cost of the public funding system to the taxpayer. In the 2011 election, parties that spent up to the applicable expenditure cap were entitled to a reimbursement of about 75 percent of their actual electoral communication expenditure. The rates of reimbursement are set out in Appendix 1.

Over the four financial years to June 2013, political parties and candidates spent about $50 million on election campaigning. Of this amount, parties and candidates were reimbursed $22 million from the Election Campaigns Fund for electoral expenditure incurred in the six months leading up to the 2011 State election. Thus about 44 percent of electoral expenditure over this four year period was reimbursed from public funding and 56 percent came from private sources.

The Administration Fund reimburses parties with elected members for their administration and operating expenses. Annual payments are made from the Administration Fund to cover actual administrative expenses. For the 2014 calendar year, independent members can claim reimbursement for their administrative expenses up to a maximum of $209,000. The maximum entitlement of a party is determined by reference to the number of elected members endorsed by the party, as set out in Appendix 2.

Over the four financial years to 30 June 2013, payments of about $29 million were made from the Administration Fund to eligible parties and independent members.
The Policy Development Fund provides financial support to parties that do not have Members of Parliament and therefore are not eligible for payments from the Administration Fund. The EFA must be satisfied that the party is genuine. For the first eight years after a party is registered, its maximum entitlement is $0.27 per first preference vote received by endorsed candidates of the party or $5,400 (adjusted annually for inflation), whichever is greater. After its eighth year of registration, a party’s entitlement to policy development funding is calculated solely by reference to the number of first preference votes received by its endorsed candidates.

Over the four financial years to 30 June 2013, eligible parties received payments of about $45,000 from the Policy Development Fund.

**Comparisons with other jurisdictions**

Most Australian jurisdictions operate partial public funding schemes to cover election expenses. The exceptions are the Northern Territory and Tasmania. Levels of public funding vary significantly between jurisdictions. Western Australia, Victoria and Queensland provide public funding under a reimbursement model. The Commonwealth and ACT provide funding under a direct entitlement scheme. As in New South Wales, a four percent eligibility threshold for public funding applies in Western Australia, Victoria, the Commonwealth and the ACT. Queensland however recently increased the eligibility threshold to six percent of first preference votes.

It is common for countries to provide financial support for political parties in the form of subsidies and public funding. The funding models vary greatly.

Canada is one of the most generous jurisdictions in terms of the amounts of public funding provided to parties and candidates. Indeed in recent years many political parties have become reliant on public funding. Parties also receive free allocations of broadcasting time. There is limited public funding of political parties in the United Kingdom. New Zealand does not provide direct public funding for political parties but does provide free time for advertising through the electronic media. In the United States, there is public funding of elections in 24 states and 16 local jurisdictions although there are significant differences between these funding schemes.

**Do any countries provide full public funding?**

Full public funding remains unusual. Parties in some European countries are dependent on public funding, but limited private campaign funding still occurs. For example, the percentage of party revenue from public funding in Belgium is approximately 80%, in Italy, public funding amounts to more than two-thirds of revenue for the majority of political parties; and in Iceland, public expenditure accounts for between 60-90% of party revenue.

A number of state jurisdictions in the United States have enacted voluntary, ‘full’ public funding schemes. These programs are ‘full’ public funding in the sense that they require participating candidates to forgo private donations, although the receipt of donations may have been a necessary qualifying factor and donations may still be raised by opponents who choose not to take public funding.
Chapter 9: Issues

Effectiveness of public funding

There are arguments about the merits of public funding; and its effectiveness in preventing corruption, encouraging engagement in the political process, and ensuring adequate financial support for all electoral participants.

Public funding is intended to prevent corruption and undue influence by removing reliance on private funding. This is intended to ensure the integrity of the political system. Private donations may be used as a means for wealthy individuals, corporations or unions to buy influence, gain unequal access to politicians, or to skew the debate away from the interests of individual voters. Particular concerns have been voiced about the influence of donations from property developers, as well as the liquor, tobacco and gambling industries.

New South Wales operates a partial public funding model. Recent events have shown that the continued permissibility of political donations continues to give rise to allegations of corruption and undue influence. It is an open question as to whether the introduction of a full public funding model would be more effective in preventing the potentially corrosive influence of political donations. Research conducted in the United States has evaluated the impact of so-called ‘clean elections‘ at a state level. The conclusion is that full public funding “played a more modest role than anticipated”.

21 The election funding regime should also encourage public participation in the political process. One means for public engagement is through the making of political donations, which are a way to show support for a particular party or candidate. The incentive to secure political donations under a partial public funding model may motivate parties and candidates to interact with the public, and provide some incentive for grassroots engagement. Where parties and candidates are at least partly reliant on donations, the need to fundraise could increase responsiveness to voters’ concerns, as well as to a party’s membership base.

22 Full public funding, on the other hand, or a very close alignment between expenditure caps and levels of public funding, would decrease the reliance on political donations and might lessen the motivation for parties and candidates to engage with their supporters. In this way full public funding, or higher levels of public funding, could have a negative impact on political participation.

Another objective of public funding is to level the playing field by ending the reliance on private finance and providing an adequate level of financial resources for all election contestants, including minor parties and independent candidates. Some research from Canada supports this view. It suggests that the significant increase in public funding in Canada over the last ten years has assisted new and emerging political parties and contributed to a “more competitive electoral environment”.

23 However, it has also been claimed that public funding advantages established parties at the expense of minor parties and independents. Dr Tham noted that: “The dangers … are that high eligibility thresholds are set (denying smaller parties from a share of public funding) and that the public funding scales are tilted towards the dominant parties (for instance, by calculating according to the number of parliamentarians).”

Constitutional issues raised by full public funding

Aside from questions as to the effectiveness of full public funding, constitutional experts suggest that the introduction of full public funding may be unconstitutional. As noted earlier,
political donations can be a means for public engagement in the political process, and a way to show support for a particular party or candidate. A move to full public funding, accompanied by a ban on all political donations, may be ruled invalid by the High Court, as democratic participation may be unreasonably hindered.

Professor Williams stated that: “Last year, the High Court struck down an O’Farrell government initiative that prohibited the making of political donations by corporations, unions and anyone not on the electoral roll. It is very hard to see how another ban on these groups, as well as on voters at large, could survive a legal challenge”. In the wake of the High Court decision, Professor Twomey similarly commented: “Laws that ban all political donations are likely to be invalid unless it can be shown that it is a proportionate response to actual cases of corruption”.

The regulation and governance of political parties

The Panel believes that the community is entitled to expect higher governance standards from political parties, particularly given the substantial public funding that parties receive to support their ongoing administration and campaign activities. As with any public expenditure a reasonable level of accountability and transparency should be required.

The Panel also believes that it is contrary to the public interest for taxpayer funds to be provided to political parties without some degree of scrutiny and audit of appropriate internal party governance. Indeed, whatever the proportion of public funding, parties should be required to demonstrate that they have appropriate structures and internal processes in place to promote compliance with both the letter and the spirit of election funding and other laws.

The Panel acknowledges that diversity of party organisations promotes electoral competition and contributes to a vibrant democracy. The Panel is, however, interested in hearing from political parties about any structural changes they might propose to improve compliance and oversight within their respective organisations. Changes might include a different approach to candidate pre-selection processes, the education and training of candidates and those involved in party administration, and more centralised financial management and reporting.
Chapter 10: Discussion Points

- A complete prohibition on political donations could be ruled unconstitutional by the High Court. In a democracy, should donors be free to contribute money as a means of political participation?

- Would full public funding lessen the financial motivation for political parties to engage with their members, and have a negative impact on engagement in the political process?

- At present, public funding covers about $22 million, or 44 percent, of the $50 million spent by parties and candidates on electoral expenses. How much would full public funding cost? Are taxpayers willing to pay more to support election campaigns?

- Would increased public funding prevent corruption and undue influence by reducing the motivation to subvert electoral laws?

- Does public funding level the playing field by providing financial support to emerging parties and independent candidates? Or does public funding advantage the established parties?

- To prevent corruption and undue influence should reform also focus on changes to party governance and culture?

- What structural changes should political parties be required to make to ensure high quality governance, as a condition of receiving public funding?
Part IV – Caps and Bans on Donations

Chapter 11: Background

In comparison to other Australian jurisdictions, political donations in New South Wales are heavily restricted. In-kind campaign contributions such as the provision of offices, computer equipment and vehicles to candidates for little or no payment are capped at $1,000. Political donations from property developers are banned to address public concerns about corruption and undue influence in the planning system. This ban has been extended to the tobacco, liquor and gambling industries.

Since 2010, the largest donation a single donor can make in a financial year is $5,000 to a political party or group, and $2,000 to a candidate, elected member or third-party campaigner (adjusted for inflation). The applicable NSW donations caps for the 2014–15 financial year are $5,700 for donations to parties and groups and $2,400 for donations to candidates, elected members and third-party campaigners.26

In 2012, political donations from corporations and other entities (e.g. unions) were banned. This ban on corporate donations was declared invalid by the High Court on the grounds that it impermissibly burdened the implied freedom of political communication under the Commonwealth Constitution.27 Political donations from unenrolled individuals and entities without an Australian Business Number are unlawful in New South Wales.
Chapter 12: Issues

Reasons for caps
The system of caps and bans on political donations is designed to reduce both the risk and the perception of corruption and undue influence by removing large donations from NSW politics.

Size of the caps
The current levels at which the caps are set (about $5,000 for donations to parties, and about $2,000 for donations to candidates, elected members and third-party campaigners) allow individuals and entities to express their support for a particular party or candidate by making political donations. Because large-scale donations are prohibited, their potential effect on the integrity of government decisions is also neutralised.

The practical impact of the caps on the major parties (who previously relied heavily on large-scale donations from private sources to fund their campaigns) has been offset by a significant increase in public funding. Similarly, the level of the current caps does not appear to have disadvantaged the minor parties in New South Wales. Before the caps were introduced, the minor parties (with the exception of the Shooters and Fishers Party and the Unity Party) obtained the majority of their private funding from annual subscriptions and donations of $1,500 or less.28

The long term impact of the caps on the ability of third-party campaigners to fund political campaigns in New South Wales is less certain. Disclosure data published by the EFA indicates that while a number of third-party campaigners have incurred electoral expenditure and made political donations themselves, only two have actually received reportable political donations since the disclosure period commencing on 1 July 2010.29

Scope of the caps
‘Political donation’ is broadly defined in New South Wales. This means that the caps on political donations cover most income from private sources. For example, the caps include money, free or discounted services, entry fees and payments associated with fundraising events, the proceeds from the sale of donated gifts, and uncharged interest on loans.

The caps also apply to transfers of money to a NSW branch of a party from other federal, State or Territory branches of the party, and transfers of money between associated parties. These provisions attempt to deal with the avoidance problems that arise due to the federal structure of political parties and the different election funding laws in each jurisdiction. Transfers from a party to its endorsed candidates are also caught by the caps. This should prevent unregulated donations in one jurisdiction being channelled to candidates in another.

There are two exemptions from the caps on donations. Annual subscriptions and membership fees are exempt, except that the maximum subscription amount is $2,000. To maintain a level playing field between all political parties, parties are prevented from using subscriptions and membership fees to fund electoral expenditure.30 The Greens question whether this is necessary given that membership fees “are subject to a cap per member and are, as a class, a non-corrupting source of income for a party”.31

Compulsory levies paid to parties by elected members are also exempt from the cap on political donations. Compulsory party levies and membership and affiliation fees do,
However, fall within the definition of ‘political donation’ and are therefore required to be disclosed (see Part V below).

**Ban on donations from unenrolled people**

It is unlawful in New South Wales to accept a donation from an individual unless they are enrolled for federal, State or local government elections.

It is suggested that compliance with this provision is impractical and onerous, particularly for minor parties. Smaller parties do not always have registered offices in every State and are therefore unable to access the federal electoral roll for the purpose of checking a donor’s enrolment status. The prohibition on donations from unenrolled individuals is also criticised because it denies permanent Australian residents who are not enrolled the opportunity to make political donations, and excludes persons under the age of 18 from paying membership fees to join political parties.

**Bans on donations from specific industries**

The ban on political donations from property developers was introduced in 2009, before the caps on political donations were in place. At the time the ban was described as the first step in a series of reforms aimed at eliminating private donations from NSW politics. It was intended that the ban would “send a clear message to the public that the era of big donations in New South Wales is rapidly coming to a close”.

The ban on developer donations was later extended to the tobacco, liquor and gambling industries. Some have questioned whether the industry-specific bans are still necessary given that political donations in New South Wales are now capped at relatively modest levels.

It is important to note that the caps on political donations are limited to State elections: they do not apply to local government elections or elected members of local councils. Lifting the ban on political donations from property developers would mean that they could once again make large political donations to local government councillors, although any political donations for the purposes of State elections would be capped. Given that political donations from property developers are arguably of great concern at the local government level, any proposal to repeal the industry-specific bans would raise questions about whether caps on political donations should be extended to local government and, if so, whether the cost of local government election campaigns should be publicly funded.

The constitutional validity of the industry-specific bans will be examined by the High Court following a legal challenge brought by Newcastle Lord Mayor Jeff McCloy. This case will involve consideration of whether the industry-specific bans impermissibly burden the implied freedom of political communication under the Commonwealth Constitution.
Chapter 13: Discussion Points

- Do the current caps on political donations achieve their intended aims of neutralising the potential influence of major donors on government decisions, levelling the playing field, and reducing the risk of actual and perceived corruption?

- How have the caps on political donations impacted the ability of political parties and others to run State election campaigns?

- Are the industry-specific bans necessary in light of the caps on political donations?

- If industry specific bans are removed should caps be placed on local government donations? Would this lead to a demand for more public funding of local government elections?

- What are the implications of a move to full public funding for the current caps on donations? If the current caps are further reduced because of an increase in public funding, would this be consistent with the implied freedom of political communication?
Chapter 14: Background

Disclosure obligations apply to political parties, elected members, candidates and groups. Third-party and major political donors are also required to lodge annual declarations with the EFA. For donations of $1,000 or more, the name and address of the donor must be disclosed. For donations less than $1,000, the total amount of small donations and the total number of persons who made those donations must be disclosed. Donations of less than $1,000 from the same source in the same financial year must be aggregated for the purposes of the disclosure threshold.

Annual disclosure of the details of all gifts to parties, groups, elected members and candidates is required if the gift exceeds the disclosure threshold. This requirement applies to membership and affiliation fees, the proceeds of fundraising ventures and functions, and transfers of money to the NSW branch of a political party from the federal or other State or Territory branches of the party. Disclosures for each financial year are required to be lodged within eight weeks of 30 June each year. Political parties are also required to lodge audited annual financial statements including details of debts and all amounts received and paid during the relevant year.
Chapter 15: Issues

Reasons for disclosure

The purpose of disclosure is transparency. The public, it is argued, has a right to know the sources and amounts of political donations. This enables some assessment of the potential influence of donations on the policies and decisions of elected representatives. Recent reports indicate that almost 90 percent of countries now impose some form of disclosure requirements on political parties and candidates.38

 Critics of disclosure rules argue that they impose an undue administrative burden.39 They also argue that disclosure requirements may inhibit the making of political donations, if donors refrain due to fear of negative reactions from friends, associates and the community at large.

A robust disclosure regime is arguably the most effective form of campaign regulation. By ensuring that the voting public is fully informed about donations before an election, disclosure requirements motivate political parties to actively avoid perceived and actual corruption. As one commentator observed, “the fear of scandals and of losing public support can serve as a better defence against misbehaviour than any legal sanctions”.40

Disclosure requirements enable the public and the media to monitor compliance with restrictions on political donations and expenditure. Although non-complying parties and candidates may not disclose that they have received prohibited donations or incurred unlawful expenditure, annual financial reporting and disclosure supports the investigative and prosecutorial functions of the EFA and other integrity bodies such as the ICAC.

Timing of disclosure

The absence of real-time disclosure provisions in New South Wales means there is a long delay between disclosure and public release of donations data. For example, disclosures covering the period from 1 July 2012 to 30 June 2013 were not due to be lodged until 26 August 2013 and were not available to the public until 25 November 2013. This is potentially a seventeen-month gap between donations and public disclosure.

This raises doubts about the utility of current disclosure rules. If the voting public is to be well-informed about donations, disclosures should be available in a timely manner. Continuous disclosure of political donations on the EFA’s website, particularly in the pre-election period, would appear to better fulfill the objectives of disclosure.

Scope of disclosure

In New South Wales, there are no disclosure or reporting obligations on associated entities, even though these entities may be controlled by a political party or operate for the benefit of that party. Although associated entities are subject to the disclosure requirements that apply to major donors and third-party campaigners, they are not required to report annually on all electoral expenditure in the same way as political parties. This creates opportunities for avoidance and raises concerns about transparency.
Chapter 16: Discussion Points

- Should real-time disclosure obligations apply to political parties, candidates and third-party campaigners?
- If so, should real-time disclosure obligations be limited to the pre-election period, or apply for some other time period including the four year period between elections?
- What administrative burden would real-time disclosure place on parties, candidates, donors and the EFA?
- Should associated entities of political parties be subject to greater disclosure and reporting obligations in the interests of transparency?
- Should disclosures be published in a form that is more accessible to the public? Should disclosure data be accompanied by explanatory material to assist the public in interpreting disclosures?
Part VI – Enforcement and Penalties

Chapter 17: Background

The effectiveness of election funding law obviously depends on compliance. The incentives to circumvent the rules to gain power are real and strong, and proportionate consequences for non-compliance are important.

While a suite of compliance and enforcement measures are available to the EFA their effectiveness must be questioned. It is through the ICAC and its broad jurisdiction that recent allegations of corrupt conduct involving election funding offences have been investigated.

Promoting compliance

The EFA conducts education seminars prior to elections and produces facts sheets and guides so that parties and candidates are aware of their legal obligations. Party and official agents are required by law to complete on-line training as a condition of their appointment.

Various aspects of the funding system also promote compliance. Public funding is delivered via reimbursement of electoral expenditure and all political donations and campaign expenditure must be disclosed. This means that a copy of each receipt for a reportable political donation, and invoices and receipts for advertising and printing expenditure must accompany a disclosure or claim.41

Audit and investigation

Disclosures and claims for payment are required to be audited by a registered company auditor before being submitted to the EFA. Party disclosures must be accompanied by audited annual financial statements as well as accounting and bank records. Once a disclosure has been submitted it is audited by the EFA to verify that it complies with the donation, expenditure and public funding rules.42

The EFA has a compliance policy about how they assess and investigate suspected breaches and decide on an appropriate response.43 They have investigative powers to compel production of financial records and documents. In certain circumstances, the EFA’s investigators can enter premises and compel answers to questions.

The ICAC also has jurisdiction to investigate and make findings of corrupt conduct relating to breaches of election funding laws. They have extensive statutory powers to compel the production of documents and the provision of information, enter premises to inspect and copy documents, obtain search warrants to search properties, use surveillance devices and intercept telephone calls, and compel witnesses to answer questions at compulsory examinations and public hearings. While ICAC does not have the power to bring prosecutions, they make recommendations that the Director of Public Prosecutions consider prosecuting individuals for criminal offences.
Prosecutions and penalties

The Act and Regulation incorporate a number of offences and penalties for non-compliance, with penalties ranging from $2,200 to $22,000 and two years' imprisonment. 44

Some offences are able to be dealt with by way of penalty notice. A penalty notice allows a person, who is alleged to have committed a specified offence, to pay a specified penalty rather than have the matter heard by a court. The amounts payable by penalty notice range from $55 to $2,750 depending on the offence.45

The EFA can enter into ‘compliance agreements’ with electoral participants. This enables remedies such as requiring a political party to institute training to avoid further breaches, or to issue a public acknowledgement and apology for the breach.46

If a person accepts an unlawful political donation, loan or indirect campaign contribution the EFA can reclaim the payment as a debt due to the State. Double the amount can be claimed if a person knowingly accepts the unlawful payment.
Chapter 18: Issues

Policy objectives

As far as possible, election funding laws and regulation should incorporate features that encourage voluntary compliance. Internal governance practices and systems are important. There should be a range of administrative, civil and criminal sanctions to deter and punish non-compliance, and liability for breaches should lie with those responsible for decision-making in the organisation.

One problem is that the current election funding scheme is complex and the legislation is convoluted and inaccessible. The EFA notes that in some ways, the scheme “impedes compliance by political participants”, even by those wishing to comply, as they “find it difficult to understand exactly what is required of them”. Inconsistencies and omissions within the Act also can lead to failed enforcement attempts, which impact on the deterrence value and perception of the EFA as a regulator.\textsuperscript{47} The ICAC has argued that, in general, overly complicated legislation should be avoided, especially as “thickets of legislation [can] often lead to legal loopholes and difficulties with compliance and enforcement”.\textsuperscript{48}

Effectiveness and size of the penalties

The allegations raised in recent ICAC investigations would suggest that the current penalties for breaching election funding law may be an insufficient deterrent, especially given the potential benefits of breaking the law and gaining power.

In Canada “a person can be imprisoned for up to five years for circumventing the cap on donations” and those convicted of corrupt practices “can be banned for seven years from running for Parliament or holding any government office”.\textsuperscript{49} This raises the question of whether serious breaches of NSW election funding laws should be punishable by a term of imprisonment sufficient to trigger the provisions under the Constitution Act 1902 (NSW) relating to disqualification of Members of Parliament. There are also additional penalties in Canada including withholding election funding where reporting requirements are not met and suspending registered political parties that fail to provide an annual return.

For penalties to be effective, there also needs to be a real and material prospect of prosecution where wrong-doing has been uncovered. The current limitation on prosecuting election funding offences more than three years after the offence has occurred would seem to be insufficient. For instance, in Canada offences can be prosecuted within 10 years of occurring.\textsuperscript{50}

Strict liability offences

Prosecution of offences under the Act requires proof, beyond a reasonable doubt, that the accused was aware of the circumstances constituting each element of the offence. In practice, this requirement prevents the successful prosecution of all but those offences where an admission is made. The EFA argue that strict liability offences for certain breaches of the legislation should be introduced, except for those carrying a penalty of imprisonment. Strict liability offences would not require proof of fault (or ‘awareness’), but would allow a defence of ‘mistake of fact’.\textsuperscript{51} This defence is available to an accused where they can prove, on the balance of probabilities, that they had “an honest and reasonable belief in certain facts that, if true, would make the accused’s actions innocent”.\textsuperscript{52} There is a concern that strict liability offences displace the important common law principle that a prosecutor must prove an intention to commit an offence. On the other hand, it can be argued that a strict liability
offence is justified in the case of election funding. The community has a legitimate expectation that participants should be aware of their obligations under the election funding law and be held accountable for any transgressions. However, as noted above, the current law and regulations are not simple and as such provide an excuse for transgressions.

**Responsibility for compliance**

Political parties, elected members and candidates are required to appoint agents. These people are responsible for managing political donations and electoral expenditure, keeping financial records and ensuring compliance with disclosure obligations. The role of agent is significant because the agent assumes responsibility and liability for compliance with the Act and can incur substantial monetary penalties or imprisonment for breaches of the law. The intent behind agents is to “provide for a segregation of duties… and ensure that the financial records of groups, candidates and Members of Parliament… are overseen by a properly trained person”.  

In reality, the introduction of agents in 2008 led to a substantial shift of responsibility and liability from elected members and candidates to agents.

Independent candidates and members often nominate a spouse or a close family member as their agent. There is no requirement that a party agent be a senior officeholder within a party, or that they have sufficient authority to control or direct compliance with election funding law. However, by virtue of being appointed and completing on-line training, agents are liable for significant penalties. Dr Tham has argued that this potential “lack of control [by party and official agents over compliance with funding laws] makes the imposition of liability on agents unfair but also ineffective”. He also argues that the approach is inappropriate. It is based on the “assumption that those who seek public office and those who hold public office – in some cases, Ministers – are not sufficiently responsible to handle their own campaign funds”.

**Status of political parties**

The structure and organisation of political parties is diverse. Some parties, including the NSW Greens, Christian Democratic Party and the Shooters and Fishers Party, are incorporated associations under the *Associations Incorporation Act 2009* (NSW). Family First is a company registered under the *Corporations Act 2001* (Cth), as are many third party campaigners.

By contrast, the Labor Party, Liberal Party and National Party are unincorporated (or voluntary) associations. This presents compliance issues. Unincorporated associations are not legal entities and their governance is not subject to the rigorous rights and duties required of company directors. This raises the question of whether registered political parties should be required to incorporate, or whether they should be recognised as legal entities for the purposes of the Act.

**Legal Status and Number of Intra-Party Units of NSW Political Parties**

<table>
<thead>
<tr>
<th></th>
<th>ALP</th>
<th>Liberal Party</th>
<th>National Party</th>
<th>CDP</th>
<th>Greens</th>
<th>Shooters and Fishers</th>
<th>Family First</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorporated?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Number of intra-party units</td>
<td>800</td>
<td>Around 550</td>
<td>Around 100</td>
<td>33</td>
<td>56</td>
<td>30</td>
<td>12</td>
</tr>
</tbody>
</table>
One option to improve governance standards within the major parties is for senior officeholders to be subject to the type of directorial duties required of directors of not-for-profit organisations. These directors have a duty to act honestly and in good faith and in accordance with the law. Other duties include to:

- not take advantage of their position to further their own needs;
- be honest and industrious;
- never use information gained through their privileged position to advantage a friend/associate outside the organisation;
- disclose any potential conflict of interest;
- act with care and diligence;
- never knowingly place the organisation in a potentially litigious position; and
- ensure all decisions made are to the advantage of the organisation or group, not the individual or any particular interest group.\(^{58}\)

An argument for changes to the legal status of the major political parties and the imposition of directorial duties is the promotion of compliance by shifting the financial impact of penalties to the party and those with power and influence on decision-making within the party. It can be argued that imposing directorial duties on senior officeholders would result in cultural change and improved governance structures and systems for managing money. Political parties are the recipients of a significant amount of public funding for both election expenses and administration costs and there arguably should be tighter governance requirements attached to the receipt of this funding.

Arguments against conferring legal status on political parties include concerns about respecting party diversity and the freedom of political association. Political activity could be discouraged as volunteering or becoming a member may give rise to concerns about potential liability and more stringent background checks. It could also result in parties focusing on regulatory requirements at the expense of engaging with party members and the public.
Chapter 19: Discussion Points

- Allegations of systemic flouting of electoral funding laws undermine public trust in the political process. Should those convicted of breaking the law be subject to more serious penalties for non-compliance? Are current offences and penalties appropriate? Should the Act include strict liability offences?

- Should serious breaches of election funding laws be punishable by a term of imprisonment sufficient to trigger the disqualification of Members of Parliament?

- Should the Act be simplified so that it is more comprehensible?

- Should there be additional remedies available for non-compliance, such as withholding public funding or suspending party registration?

- Is the liability of official and party agents for election funding offences appropriate and effective in promoting compliance? Should responsibility rest directly with parties, candidates and elected members?

- Should political parties be required to incorporate or become legal entities? Should senior party officeholders be subject to directorial duties? What other ways are there to improve party governance?

- What is the impact of compliance measures on small parties, independents and third parties?
Glossary

ACT  Australian Capital Territory
ALP  Australian Labor Party
CDP  Christian Democratic Party (Fred Nile Group)
CPI  Consumer Price Index
EFA  Election Funding Authority of New South Wales

The EFA is responsible for:

- dealing with claims for public funding of State election campaigns and administration and policy development expenses;
- enforcing the caps and bans on political donations and the caps on electoral expenditure;
- enforcing disclosure requirements on political donations and electoral expenditure; and
- registration of candidates, groups, third-party campaigners and agents.

Electoral communication expenditure

A subset of ‘electoral expenditure’ that includes expenditure on:

- advertisements in radio, television, the Internet, cinemas, newspapers, billboards, posters, brochures, how-to-vote cards and other election material;
- the production and distribution of election material;
- the Internet, telecommunications, stationery and postage;
- employment of staff engaged in election campaigns; and
- office accommodation for campaign staff and candidates (other than for a party’s campaign headquarters or a Member of Parliament’s electorate office).

Electoral communication expenditure does not include expenditure on:

- travel and travel accommodation;
- research associated with election campaigns; and
- election fundraising or auditing of campaign accounts.

Electoral expenditure

Expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election.

Group

A group of candidates standing for election to the Legislative Council.
High Court | High Court of Australia
---|---
ICAC | Independent Commission Against Corruption
LA | Legislative Assembly
| The Lower House of the NSW Parliament.
LC | Legislative Council
| The Upper House of the NSW Parliament.
NSWEC | New South Wales Electoral Commission
| The NSWEC is responsible for:
| - the conduct of State and local government elections;
| - registration of political parties;
| - enrolment of electors; and
| - managing the electoral rolls.
Political donation | A gift made to or for the benefit of a party, an elected member, a candidate or a group of candidates.
| Also includes a gift made to or for the benefit of an entity or person (including a third-party campaigner) which is used in whole or part or is intended to be used to make a political donation or to incur electoral expenditure.
Property developer | A corporation engaged in a business (or a person who is a “close associate” of such a corporation) that regularly involves the making of “relevant planning applications” by or on behalf of the corporation in connection with the residential or commercial development of land with the ultimate purpose of the sale or lease of the land for profit.
| For example, a “close associate” of a corporation includes:
| - Directors and officers and their spouses;
| - Related body corporate; and
| - A person whose voting power in the corporation or related body corporate is greater than 20%.
The Act | *Election Funding, Expenditure and Disclosures Act 1981 (NSW)*
| The Act provides the framework for the NSW election funding regime, including to:
| - provide for public funding of State election campaigns and administrative and policy development expenses;
| - impose caps on political donations and electoral expenditure;
| - impose disclosure requirements for political donations and electoral expenditure;
- prohibit donations from specific industries; and
- constitute the EFA to oversee the implementation of the Act.

<table>
<thead>
<tr>
<th>Third-party campaigner</th>
<th>An individual or organisation who is not seeking election who incurs electoral communication expenditure of more than $2,000 in the six months preceding a State election.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unions NSW</td>
<td><strong>Unions NSW v State of New South Wales</strong> [2013] HCA 58.</td>
</tr>
<tr>
<td></td>
<td>In 2013 the High Court handed down its decision in the Unions NSW case.</td>
</tr>
<tr>
<td></td>
<td>The Court struck down bans on political donations by corporations and other entities on the ground that they were not enacted for the purpose of achieving a 'legitimate end'.</td>
</tr>
</tbody>
</table>
## Appendix 1: Reimbursement of Electoral Communication Expenditure

<table>
<thead>
<tr>
<th>Actual expenditure within expenditure cap</th>
<th>% of actual expenditure that may be claimed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Eligible Legislative Assembly party</strong></td>
<td></td>
</tr>
<tr>
<td>First 0-10% of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next 10-90% of expenditure cap</td>
<td>75%</td>
</tr>
<tr>
<td>Last 90-100% of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible Legislative Council party</strong></td>
<td></td>
</tr>
<tr>
<td>First one third of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next third of expenditure cap</td>
<td>75%</td>
</tr>
<tr>
<td>Final third of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible LA candidate - endorsed by a party</strong></td>
<td></td>
</tr>
<tr>
<td>First 0-10% of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next 10-50% of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible LA candidate - Independent</strong></td>
<td></td>
</tr>
<tr>
<td>First 0-10% of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next 10-80% of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible LC candidate</strong></td>
<td></td>
</tr>
<tr>
<td>First one third of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next third of expenditure cap</td>
<td>75%</td>
</tr>
<tr>
<td>Final third of expenditure cap</td>
<td>50%</td>
</tr>
</tbody>
</table>

*Election Funding, Expenditure and Disclosures Act 1981 (NSW) Pt 5 Div 2*
## Appendix 2: Annual Administration Fund Entitlements

<table>
<thead>
<tr>
<th>No. of elected members</th>
<th>Maximum annual entitlement from Administration Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$209,000</td>
</tr>
<tr>
<td>2</td>
<td>$365,500</td>
</tr>
<tr>
<td>3</td>
<td>$469,900</td>
</tr>
<tr>
<td>3 to 25</td>
<td>$469,900 (plus $86,800 for each member from the fourth up to the 25th).</td>
</tr>
</tbody>
</table>
Endnotes


7 Dr Tham (November 2012), p 164.

8 New South Wales, Parliamentary Debates, Legislative Assembly, 15 April 1981, p 5944 (Neville Wran, Premier).

9 New South Wales, Parliamentary Debates, Legislative Assembly, 28 October 2010, p 27168 (Kristina Keneally, Premier).

10 New South Wales, Parliamentary Debates, as above (Kristina Keneally, Premier).


12 This amount combines ‘electoral communications expenditure’ and ‘electoral expenditure’.

13 South Australia’s public funding scheme will come into effect on 1 July 2015.


15 Harold Jansen and Lisa Young, ‘Cartels, Syndicates and Coalitions: Canada’s Political Parties after the 2004 Reforms’ in Jansen and Young (eds), Money, Politics and Democracy, p 82 & p 94.


18 Maria Chiara Pacini, ‘Public Funding of Political Parties in Italy’ (2009) 14 Modern Italy, p 183 & p 199.


23 Dr Joo-Cheong Tham, ‘A case against a system of full public funding of political parties’, prepared for the NSW Electoral Commission (June 2014), pp 3-4.


Dr Anne Twomey, ‘The reform of political donations, funding and expenditure’ (2008), p 22.


New South Wales, Parliamentary Debates, Legislative Assembly, 28 October 2010, p 27168 (Kristina Keneally, Premier).


Joint Standing Committee on Electoral Matters (May 2013), p 88.


New South Wales, Parliamentary Debates, Legislative Council, 10 November 2010, 27458 (Dr John Kaye).

Dr Tham (November 2012), p 153.


Dr Tham (November 2012), p 203.

48 The Hon David Ipp QC, ICAC Commissioner, Submission No. 14, NSW Joint Parliamentary Committee on Electoral Matters, Inquiry into Public Funding of Election Campaigns, p 3.


50 Professor Anne Twomey, as above.


54 Dr Tham (November 2012), p 91.

55 Dr Tham (November 2012), p 91.

56 Dr Tham (November 2012), p 88.

57 Dr Tham (November 2012), p 72.