

**Submission  
No 168**

## **INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING**

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Ms Rachel Simpson  
Director  
Select Committee on Electoral and Political Party Funding  
Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Ms Simpson,

**Electoral and Political Party Funding Inquiry**

Thank you for the opportunity to contribute to this inquiry.

We are researchers at Macquarie University. In 2007 Shane Leong, supervised by Mr James Hazelton and Dr Cynthia Townley, completed an honours thesis examining the moral status of corporate political donations. We wish to share the key insights of this project with the Committee. Our submission responds to terms of reference (a), (b) and (d).

Briefly, we reviewed two major philosophical frameworks and applied them to the four options regarding corporate political donations (allowing, prohibiting, limiting, and replacing with public funds). The results of this analysis were that both frameworks suggested that replacement by public funds was the best option, but the frameworks differed in regard to the second-best option. Overall, we conclude that the most attractive option is replace, but the most practical option is placing a moderate limit on corporate donations, such as \$5000 or \$10,000 per year.

Our research also examined the experience of the US election funding system. The US provides a rich data source as many states have different finance laws. Our submission provides examples from the US which suggest that extreme caution must be exercised in drafting finance laws lest the resulting system become so cumbersome that it discourages democratic participation.

Although our submission focuses on corporate donations, our work is also applicable to donations by unions and other organisations. We hope that our submission is helpful and would welcome any further opportunity to assist the Committee.

The views expressed in this submission are the personal views of the authors and do not represent Macquarie University.

Yours Sincerely,

Shane Leong  
James Hazelton  
Dr. Cynthia Townley

**SUBMISSION TO THE SELECT COMMITTEE ON  
ELECTORAL AND POLITICAL FUNDING**

**2008**

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## 1. Executive Summary

Although political finance reform is often undertaken with the best of intention, history has shown that it not only often fails to solve the problem, but also results in unanticipated side-effects. Our purpose in presenting this paper is threefold. First, we wish to illustrate the advantages and disadvantages of corporate contribution reforms. Our research into American campaign finance reform has shown us that simple changes can not only fail to accomplish the goal, but backfire. We wish the Committee to be armed with the benefit of American hindsight. Second, we wish to ensure that the Committee is aware of the existence and criticisms of one of the more exotic reform options called ‘clean money’, which is operational in Maine, Arizona and several other American states. Finally, we wish to provide our thoughts on the best - or more accurately, the least unattractive – way of dealing with corporate political donations. Although we are primarily concerned with corporate donations, our work could also be extended to donations by unions and other organisations.

There are four options for corporate political donation reform that the Committee has at its disposal, each of which is evaluated in this submission. These options are:

1. **Allowing** corporations to make unlimited contributions. This option would contribute little to solving the issues raised by corporate donations, but it does not attract the problems associated with the other options below.
2. **Limiting** the amount corporations can donate. Theoretically, an appropriate limit can prevent corporations from donating an inappropriately high amount of money without causing a large decrease in party funding. Practically, however, any limit low enough to deal with the perception of corruption is unlikely to be

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high enough to avoid creating a severe drop in party finances. Such a large decline may give parties reason to attempt to circumnavigate the rules, thereby contributing to a perception of corruption. Despite this problem, donation limits offer a way of reducing reliance on corporate donations.

3. **Prohibiting/banning** corporate donations is often regarded as the solution to removing the stain of corruption from our democracy, but in practice, is extremely unlikely to produce such results. In order to even *attempt* to address the concern that business interests are able to buy political decisions, businesspeople would have to be prevented from simply donating large sums from their personal wealth. Theoretically, this could be accomplished by placing limits on personal donations - however, there are problems. First, individual donation limits would not end concerns about political donations, but rather shift the object of concern from large donors to large groups of donors. Second, as minor parties may be more dependent on large donations than major parties, a low donation limit could prevent some minor parties from amassing sufficient funds to conduct a viable campaign. Third, such limits could increase the time spent raising funds.

Despite the before mentioned problems, prohibition does have the ability to satisfy those who believe that only individuals should be permitted to donate to political causes. Before choosing this option however, it is imperative to ensure that prohibition will not leave political parties with insufficient operating funds. Such a situation would almost certainly lead to political parties attempting to find and exploit loopholes, the sight of which would leave the public more disillusioned and distrustful about the system than ever.

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4. **Replacing** corporate donations with public money. One replacement strategy is to follow the ‘clean money’ program found in several American states and grant public funding to those candidates who collect a specified number of \$20 cheques from people in their electorate. To prevent their independence being compromised, clean money candidates are not permitted to raise private money for campaigning.<sup>1</sup> An alternate replacement strategy involves offering parties increased public funding per first preference vote, on the condition that they refrain from collecting money from people and/or organisations. In order to avoid disadvantaging minor and new parties, parties would be permitted to reject the complete blanket donation ban and raise money using traditional methods. This strategy has the potential to end financial donor-receiver relationships, but would be easily undermined if political parties were not committed to obeying the spirit of the rules. For example, parties could establish political action committees (PACs) which engage in campaigning on behalf of political parties. These PACs could collect unlimited amounts of money, thereby re-raising the issues that public money was supposed to have solved.

We make four recommendations. First, we recommend that replacement be pursued if political parties can be trusted not to seek out loopholes. Failing that, the next best option would depend on how certain the Committee is that political parties can survive the loss of corporate funding. If it is certain that parties would survive, the best alternative is prohibition. Otherwise, the best option is to implement a moderate limit such as \$5,000 or \$10,000.

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<sup>1</sup> In some versions of the program, clean money candidates do not receive a grant of money. Instead, the candidates are permitted to solicit donations, but are required to observe very low donation limits, such as \$250. In order to ensure that the candidates have enough money, the state provides approximately \$3 for every dollar raised by the candidate.

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Second, we recommend that the Committee consider the viability of offering each candidate the choice of qualifying to receive public money by:

1. Using the current system *or*
2. Fulfilling clean money style qualifications (i.e. collecting a specified number of \$20 cheques from people in the electorate.) The advantage of this method is that it would permit public funds to be released before an election when they are needed most.

Our third recommendation concerns the Committee's request for submissions regarding the 'desirability of exploring other possible sources of funding for elections' (Select Committee on Electoral and Political Party Funding, 2007, p.4). One inexpensive way of attempting to promote equity between candidates and reduce the influence of money to determine elections would be for the NSW Election Commission (or another agency) to maintain a candidate website index, with candidates grouped by electorate. Users would be able to select their electorate and be provided with a link to the personal website of every candidate participating in that election (who has a website). The reason for creating this webhost is that people are more likely to look at candidate webpages if they can access them easily by going to one well known website, rather than if they have to search for every candidate's webpage separately. Further, if the existence of the website were advertised before the election period, candidate webpages would be viewed by people who never considered looking for election information on the web. In this way, all players – big and small – would have a forum that is considered easily accessible; where they can communicate everything they choose to say; and where those who want to listen can do so. Democracy requires people to take responsibility for



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placing effort into deciding who will lead and this website would encourage people to do so.

Finally, we recommend that the disclosure thresholds for parties, groups and candidates be set at a level such as \$1500. In addition, we warn that whilst the political finance disclosure system should provide proper accountability, simplicity is also an important virtue. The more complex the disclosure regime, the more unlikely it is that candidates are able to fulfil the requirements without the assistance of an expert lawyer. This can result in politics becoming off limits to those without the resources to hire professional assistance, or who are unable/unwilling to join an existing party.

This submission is arranged as follows. Sections 2 and 3 outline and apply philosophical frameworks to identify the best reform option. These philosophical frameworks provide slightly different answers; hence, Section 4 discusses these results and ranks the options. Section 5 outlines the practical considerations involved in each of the four reform options whilst Sections 6 and 7 describe our views regarding the candidate website and considerations that should be present in an appropriate disclosure regime. Section 8 concludes the submission.

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## **2. The Optimal Reform Option According to Robert Goodin's**

### **(1995) Utilitarian Philosophy**

#### **Context and Overview**

Utilitarianism refers to a school of philosophical theories that offer ethical guidance by appraising actions or decisions in terms of utility, which can be very loosely defined as the overall good. Generally speaking, utilitarian frameworks revolve around the idea that the best decision is the one that produces the most good (utility), or at least as much good as conceivable alternatives.

Appropriately specified, a utilitarian framework permits assessing corporate donations, in terms of overall good and the practicality of reform. Goodin's (1995) specification was chosen as it incorporates practical considerations and significantly avoids the problems involved in using alternate versions (see Appendix A). The view of utilitarianism presented by Goodin (1995) can be briefly summarised as:

The government should enact those policies and rules for which it is expected that their general observance will best satisfy society's laundered preferences – or, at least, as well as any conceivable alternative.

#### **Practical Considerations of Utility**

A simple view of governmental responsibility might suggest that the government should attempt to enact policies that are in the nation's best interest. However, Goodin (1995) realises that there are several practical limitations to such a position. First, the

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government is not all-knowing and must always make decisions based on incomplete information. For this reason, policies need only be decided according to that which the government *deems* to be objectively right – a policy does not actually have to *be* objectively right to be morally defensible. For example, if the government declared war in the belief that it would best satisfy people’s preferences, even if this belief was wrong, declaring war is still a morally defensible action.

Second, Goodin (1995) recognises that it is impossible for a government to ensure that it only enacts legislation which will *always* provide optimal preference satisfaction for *everyone*, in *each and every* situation. For this reason, he specifies that the government is only required to believe that the *general* observance of a policy will optimise preference satisfaction in order to enact it. For example, raising taxes to provide disaster relief will benefit those in the disaster areas while being detrimental to those who are not, yet the government would still be entitled to do this if, overall, it maximises preferences.

A third practical limitation is that there are some decisions for which it is impossible for the government to satisfy the preferences of all. For example, no government has the ability to provide, simultaneously, world-class public services in health, defence, police, education, transport and welfare etc, whilst also having a near-zero tax rate and a surplus sufficient to end world poverty. In reality, the government will have to prioritise preferences and make what it deems to be the decision that best satisfies society’s preferences.

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## **Laundered Preferences**

An important feature of this conception of utility is that it is determined *primarily*, but not *solely*, by considering how preferences would be best satisfied (Goodin, 1995, pp.137-141). While people's preferences are of central importance, preference satisfaction is the means - not the end. The ultimate goal is to enact those policies that create the most good. Therefore, if satisfying certain preferences will clearly *not* contribute to the overall good - for example, a sadist's desire to inflict pain - then the government has good reason to disregard those preferences. Filtering out these 'impure' preferences from utility calculations is referred to as laundering preferences.

## **Applying Goodin's (1995) Framework**

According to Goodin's (1995) framework, the best reform strategy (allow, limit, prohibit or replace), is the one that produces the most utility (that is, the greatest good), where utility is represented by the satisfaction of people's laundered preferences.

Society can be assumed to possess the following preferences:

1. That the potential for undue influence from donations be minimised.
2. That there be minimal cost to taxpayers.
3. That the system not deprive new and emerging parties of money.
4. That the political financing system not distance politicians from the people they represent.
5. That adequate funding of political parties is provided.

None of the four reform options satisfies all of these preferences simultaneously, so we have to prioritise them. We assume that Preference 1 (that the potential for undue

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influence from donations be minimised) is the most important preference because this is the concern most frequently expressed. If one could assume that political parties would refrain from attempting to gain benefit through loophole exploitation, then the best option to pursue would be replacement as it would remove the direct financial link between business and major parties. Although replacement could distance politicians from citizens, politicians are already accused of losing touch. An increase in public funding for political parties may cause some outrage, but many people would accept this, upon realisation that the alternative is for parties to be funded using corporate money.

Unfortunately, given that politics is notoriously competitive, we believe it is inevitable that parties will push the boundaries of the law. For this reason, a more practical option would be to implement a moderate corporate donation limit, such as \$5,000 or \$10,000 per year. Allowing corporations to donate a moderate amount reduces the risk of creating a money shortage for both minor and major parties (moderately satisfying Preferences 3 and 5). This solution also does not carry any greater risk of distancing political parties from people than the current system, nor does it require the expenditure of additional public funds. (satisfying preferences 2 and 4). It is also preferable to allowing unlimited donations, as it places an upper limit on corporate donations (slightly satisfying Preference 1).

Limitation could be criticised for only slightly satisfying the most important preference – that the potential for undue influence be minimised (preference 1). However, moderate limits are still the most practical solution as the alternatives are not expected to cause any significantly greater satisfaction of preference 1.

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## 3. The Optimal Reform Option According to Ronald Dworkin's (2000) Theory of Equality

### Dworkin's (2000) Abstract Concept of Equality

The starting point of Dworkin's (2000, pp.1-7) political philosophy is the premise that society should show equal concern to all. This seems appropriate since equality is the fundamental value underlying democracy. Dworkin (2000) argues that the government can show equal concern by creating policies that respect the following two principles, referred to as the two principles of ethical individualism:

1. **The Principle of Equal Importance:** 'It is important, from an objective point of view, that human lives be successful rather than wasted, and this is equally important, from that objective point of view, for each human life' (Dworkin, 2000, p.5). This principle implies that public policy should be designed with a view to assisting people to live the lives they want. This is achieved by reducing the extent to which people's lives are determined by factors outside of their control, such as, class, wealth, gender or handicaps.
2. **The Principle of Special Responsibility:** 'Though we must all recognise the equal objective importance of the success of a human life, one person has a special and final responsibility for that success – the person whose life it is' (Dworkin, 2000, p.5).

The implication for policy is that people should be allowed to take responsibility for their lives and determine their course. The government should, within

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reason, avoid restricting people's choices and, indeed, should try to maximise the impact that people's choices have on their lives.

Taken in combination, these two principles require the government to enact policies with the intention of assisting people to live successful lives, whilst still leaving the individual responsible for the outcome. Equality, then, is a situation whereby each person's life is determined mainly by personal choice and minimally by external factors.

## The Partnership Conception of Democracy

Dworkin (2000, Chapter 4) suggests the best approach to achieving political equality is to design a political system so that it produces results that show equal concern for all. Such a system would be based on the following three principles (Dworkin, 2000, Chapter 10):

1. **Popular sovereignty** describes the vertical power relationship that should exist between people and government. Dworkin (2000) conceives of popular sovereignty as requiring the government to be *accountable* to the people, but not *completely controlled* by the people. It does not require the government to make policy decisions according to whatever decision is supported by the majority. Although, it does require the people to be in a position to judge the suitability of parties and their policies. Therefore, people being unable to hold the government to account damages popular sovereignty. Governments creating laws to keep information from the public or prohibiting criticisms are such examples.
2. **Citizen equality** is primarily concerned with the horizontal power relationship between citizens, but also involves the vertical relationship between citizens and

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government. It requires each citizen to have an equal opportunity to influence the political process, either by voicing their opinions and standing for election; or by ensuring that certain groups do not derive influence from illegitimate sources, such as wealth, class or gender.<sup>2</sup> Citizen equality is *not* breached when citizens decline the opportunity to exert or derive influence from legitimate sources, such as being an elected member of government.

3. **Democratic discourse** is concerned with the way in which political issues are discussed and decisions made. For Dworkin (2000), democracy should not be as much about voting, as it should be about voting *after* proper interaction, deliberation and communication, so that the people make an informed decision. Therefore, it is not enough merely to permit people to express their views freely. Instead, the system should be designed to allow people to reflect rationally on the different viewpoints being put forward and discuss them with others. The quality of democratic discourse depends directly upon the quality of information passed around. It suffers when information is excluded from public debate, either due to parties being prevented from speaking, or speakers failing to provide all the information needed to make a rational decision.

If ever the three principles are in conflict, Dworkin (2000, pp.369-370) advises sacrificing democratic discourse over the remaining principles. Citizen equality is a right that should not be violated. Permitting restrictions of popular sovereignty may provide an excuse for a government to limit accountability. By default, democratic discourse is therefore the safest to sacrifice.

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<sup>2</sup> Properly defining an illegitimate source is outside the scope of this paper. For the purpose of this paper, an illegitimate source is simply any source from which people should be unable to derive influence.



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## **Political Finance Recommendations**

Unlike Goodin (1995), Dworkin (2000) specifically discusses the implications of his framework for campaign finance. Whilst corporate involvement is mentioned, Dworkin (2000) is primarily concerned with people. For Dworkin (2000, p.366), citizen equality is breached when a certain class of people are able derive political influence simply because they are wealthy. If wealth were equally distributed, i.e. distributed in such a way that respects the principles of equal importance and special responsibility, then wealth would be an acceptable source of influence. This is because all people would all have similar opportunities to use their money influence political decisions if they chose to do so, hence a party's wealth would bear some correlation with public support.

In the real world, however, wealth is not equally distributed and everyone does not have a similar ability to use their money to influence politics outcomes. For this reason, citizen equality is violated when certain groups have the ability to increase the chance of their views being accepted simply because they have money. However, directly limiting the ability of people to donate is a breach of popular sovereignty as it takes information out of the area. A better option, according to Dworkin (2000, pp.366-367), is to dilute the power of money by implementing campaign expenditure caps. Provided that these caps sufficiently high to allow candidates to mount an effective campaign, campaign expenditure caps would repair the damage to citizen equality with little damage to popular sovereignty.

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Dworkin (2000, pp.378-380) does not suggest what action should be taken concerning corporate donations made directly to political parties, nor does he consider the moral impact of disclosure. He does, however, advocate prohibiting corporations from using their general funds for electioneering activities, such as donating to political action committees or running issue advocacy campaigns, on the grounds of protecting citizen equality. If corporations want to engage in the political arena, Dworkin (2000, pp.378-380) believes they should be required to raise funds from individuals and use that money, rather than company money. His position appears to be that citizens cannot participate as equals if a small segment can obtain significant influence by drawing upon vast pools of funds owned by others. Consequently, shareholder money is an illegitimate source of influence and its use violates citizen equality. Therefore, corporations should be required to use funds donated by individuals if engaging in the political arena.

Despite his opposition to corporate donations, it is possible to satisfy Dworkin's (2000) principles of democracy whilst permitting corporations to donate out of corporate funds by following Sitkoff's (2003) suggestion to forbid donations only from companies that do not have a constitutional clause authorising such donations. People who buy shares in companies with such a clause are implicitly consenting to their money being used to influence the political environment. Therefore, directors are fully entitled to donate money to political parties if they feel it will assist in maximising shareholder returns.

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## Applying Dworkin's (2000) Framework

Using Dworkin's (2000) framework, the optimal reform option is the one that best upholds popular sovereignty, citizen equality and democratic discourse. As the table below shows, replacement is superior to all three other options in terms of citizen equality; and is as good as the other options in terms of both popular sovereignty and democratic discourse. Therefore, replacement is the best option. Unlike Goodin's (1995) framework, Dworkin's (2000) framework identifies the next best option as prohibition.

<b>Reform Strategy</b>	<b>Effect on Popular Sovereignty</b>	<b>Effect on Citizen Equality</b>	<b>Effect on Democratic Discourse</b>
<b>Allowance</b>	No effect	Violates citizen equality. Citizens cannot participate as equals if a small segment can obtain significant influence by drawing upon vast pools of funds owned by others. Corporations may only engage in political action using money that has been expressly provided for that purpose.	None.
<b>Limitation</b>	No effect provided that corporations are permitted to donate and/or engage in campaigning using money that has been expressly provided for such purposes.	Violates citizen equality. Citizens cannot participate as equals if a small segment can obtain significant influence by drawing upon vast pools of funds owned by others. Corporations may only engage in political action using money that has been expressly provided for that purpose.	Uncertain. May increase democratic discourse by forcing politicians to talk to people in society in order to raise funds. Alternatively, depending on where the limit is set, a donation limit may increase the time it takes to raise funds, thereby leaving politicians with less time to discuss important issues.
<b>Prohibition</b>	No effect provided that corporations are permitted to donate and/or engage in campaigning using money that has been expressly provided for such purposes.	Prohibition enhances citizen equality.	Uncertain. May increase democratic discourse by forcing politicians to talk to people in society in order to raise funds. Alternatively, a prohibition may increase the time it takes to raise funds, thereby leaving politicians with less time to discuss important issues.
<b>Replacement</b>	None, provided that	This option offers a greater degree	Uncertain. Has the

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	<p>every citizen – including politicians – are permitted to use their money to influence politics in ways not involving a direct donation, such as launching issue advocacy campaigns.</p>	<p>of citizen equality by ending direct donor-recipient relationships for those parties choosing to observe complete blanket donation bans. However, this benefit would only be achieved if politicians did not seek to exploit regulatory loopholes to solicit money.</p>	<p>potential to increase democratic discourse by giving politicians more time to discuss issues with people. May also impair democratic discourse as politicians may be reluctant to voice controversial options if both votes <i>and</i> money are jeopardised.</p>
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### 4. Discussion of Optimal Reform Option

We would now turn to the big question – which, of the four reform options is *least* unattractive? Both frameworks agree that if politicians were committed to obeying the rules, replacement would be the best option. The two frameworks provide different answers as to which is the next best option. We will present the options, starting with the solution most in line with democratic ideals and finishing with the most realistic solution, in regards to implementation.

If one could assume that political parties would refrain from attempting to obtain benefit through loophole exploitation, then the best option to pursue would be replacement. Replacement involves allowing each party/independent a choice of either raising money using traditional methods (combined with public funding); or receiving extra public funds in return for observing a complete blanket donation ban. This option would remove the direct financial link between business and major parties, whilst permitting smaller parties to raise money using traditional methods.

The second best solution would be to prohibit corporate donations, but permit both to collect money for the express purpose of donation. Whilst this would not end the

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perception that money leads to decisions, it would end the controversy over whether it is right to use shareholder money for political action. However, prohibition could also trigger a large decrease in party funds for what is really an insignificant moral victory. For this reason, prohibition could only be followed if a large loss in corporate funding was not expected to generate any serious problems. Pierre Côté, Québec's Chief Electoral Officer for 19 years, argues that it was a mistake to ban corporate donations because political parties simply cannot amass the necessary funds from individuals and the prohibition is too difficult to enforce (Standing Senate Committee on Legal and Constitutional Affairs, 2006a). Côté notes that there is little point in having 'the most wonderful provisions' if they lead to fundraising becoming so cumbersome that candidates are forced to exploit loopholes. There are few things more capable of destroying trust in the political system and creating the impression that politicians are concerned more about money than morality than observing the elected leadership trying to avoid political donation laws.

If it is not feasible to replace corporate money with public money, or to prohibit corporate donations, then the only two options left are limiting or allowing corporate donations. Placing a high limit – such as \$5,000 or \$10,000 - would be a way to reign in corporate donations without creating incentive for people to find and exploit legal loopholes. A donation limit could achieve some good, although it must be admitted that this solution is barely more appealing than allowance.

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## **5. Practical Considerations of the Policy Options**

This section discusses the four policy options in greater detail, outlining the advantages and disadvantages associated with each. None are perfect and it must be accepted that there is no such thing as a perfect political finance system.

### **Policy Option 1: Allowing Corporate Donations**

The simplest solution is to allow corporations to make unlimited donations and rely upon the threat of voter backlash to discourage corrupt behaviour. The obvious problem is that permitting unlimited corporate donations does little to relieve society's fear that corporations are using their donations to acquire special favours. When the problems associated with the other three reform options are considered, however, allowance becomes a more attractive solution. This is especially true as pursuing an allowance strategy does not eliminate the option of discouraging corporate donations through other means. Corporations could be permitted to make unlimited donations, but be heavily taxed (Young & Tham, 2006). Alternatively, companies could only be permitted to make donations in accordance with a donations policy approved by shareholders using an ordinary resolution (Ramsey, Stapleton, & Vernon, 2000). Yet another option is to forbid any corporate political donations by organisations that do not have a specific constitutional clause authorising such expenditure (Sitkoff, 2003).

### **Policy Option 2: Limiting Corporate Donations**

Implementing donation caps is typically advocated for three reasons. First, a donation cap should deprive corporations of the ability to make excessively large donations,

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thereby preventing them from wielding any influence that comes from making such large donations. Second, limits should lessen the financial advantage major parties have over minor ones (Tham & Orr, undated). We caution, however, that whilst limiting corporate contributions may indeed close the gap in absolute funding between minor and major parties, it is uncertain if this will make elections more financially equitable. The Greens Democracy for Sale website (<http://www.democracy4sale.org>) records that both they and the Australian Democrats have been recipients of corporate contributions.<sup>3</sup> Depriving minor parties of a potential source of revenue may serve to hurt them more than help them. Given that those parties most likely to attract corporate donations are also those most likely to attract first preference votes, it is possible that an appropriately designed public funding system could offset any harm caused by corporate donation limits.

A third claimed advantage is that a donation limit will force political parties to become less reliant on raising their support from large donors. Therefore, parties will become more dependent on raising money through membership fees. This gives the parties motivation to attract and build a large membership base, which in turn provides incentive to make connections with the community, listen to their members and become more democratic (Tham & Orr, undated). We are uncertain as to whether it is desirable for political parties to be more or less sensitive to their members. Giving parties an ideological anchor could serve to make them stand for something more than winning and help them to more effectively represent their chosen sectors of society (Edwards, 2007). However, it could also serve to make them less open to the interests of others.

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<sup>3</sup> The Greens' Democracy for Sale website (<http://www.democracy4sale.org>) records that the Australian Democrats have been recipients of large corporate contributions, such as \$50,000 from Publishing and Broadcasting Ltd; \$30,000 from Coca-Cola Amatil; and \$25,000 from Fosters. Although the Democrats are having difficulty attracting corporate donations at the present time, the fact remains that imposing limits on corporate donations may serve to reduce the aggregate total of donations minor parties receive. Shane Leong, James Hazelton and Cynthia Townley

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The major problem with donation limits is that those determined to avoid the limits will find a way of doing so. Companies can arrange for third parties to make a donation and then reimburse them. Donations may be given using membership or conference attendance fees. Such is the difficulty in enforcing donation limits that the AEC (2000) recommends against adopting them. Worse, such limits may result in a system whereby the largest donations are made by those who are not willing to play 'by the spirit of the rules'. In other words, if society's fears concerning corporate donations are justified, then the very corporations that society should be most concerned about will wield more influence than ever before, as they can make larger donations than those who obey both the word and spirit of the law.

The only real reason to choose limitation over allow or prohibit is to create a compromise. Theoretically, this solution would respond to concerns about the influence of corporate money, by depriving corporations of the ability to make excessively large donations, but also permits corporations to continue contributing so that those parties accustomed to receiving corporate donations do not experience a large decrease in funding. However, any limit low enough to deal with the perception of corruption is unlikely to be high enough to avoid creating a severe drop in party finances.<sup>4</sup> In fact, a low limit could provide parties with incentive to exploit the previously mentioned legal loopholes, thereby contributing to the perception that politics is corrupt. A moderate limit would be a way of bringing corporate donations under control, but would permit the donation of amounts deemed sufficiently high to create corruption.

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<sup>4</sup> The cash-for-vote scandal shows that donations of \$10,000 are deemed sufficient to purchase favours (Young & Tham, 2006). Any limit created to prevent corporations giving amounts deemed sufficient to buy favours would require a donation cap less than \$10,000 p.a. However, given that a large number of corporate donations exceed \$10,000, such a cap could cause a severe loss in party funding.



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## **Policy Option 3: Banning/Prohibiting Corporate Donations**

As prohibiting corporate donations is effectively the same as instituting a \$0 donation cap, prohibition would raise the same concerns as a low donation limit. If a donation cap *does* work as intended, it may severely reduce the finances of both major and minor parties. In doing so, a corporate donation prohibition may create incentive to bend the rules. Despite this, prohibition is an attractive solution to those who believe it is wrong in principle for corporations to be donating to the political process. When individuals donate – provided that the amount is trivial – their actions are often considered admirable. When corporations donate, however, their actions are regarded as suspect, if not downright sinister. This is likely caused by the fact that corporations contribute to the democratic process out of a motivation to increase their profits, combined with public awareness that corporations have more money to contribute to the task than average citizens.

One of the greatest problems with prohibiting corporate donations is that it is possible to avoid the rules. As these same techniques can be used to avoid a corporate donation limit, the term ‘restrict’ will be used to refer to both prohibition and limitation. The simplest way of avoiding a donation restriction is for corporate executives to donate out of their own pocket instead of from corporate funds. Corporate executives tend to be wealthier than other segments of society. Further, corporate executives may benefit from corporate interests taking priority over public interest; and have more incentive to involve themselves in the political process than almost any other group of people.

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Hence, permitting individuals to donate unlimited amounts undermines the primary rationale of restricting corporate donations in the first place.

The apparently obvious solution - placing limits on individual contributions - raises severe problems. In order to have any chance of removing the perception that donations buy influence, the donation limits would have to be set relatively low. Unfortunately, the effects of low donation limits would be felt disproportionately. The parties most able to thrive under donation limits are those that have had years to make contacts and whose members are influential enough to sell access; while newly established parties are more likely to suffer as they tend to have fewer contacts and supporters and, hence, are in greater need of larger donations than their more established counterparts. It seems unfair to force new parties to abide by funding restricting that established parties never faced when they were founded.

On rare occasions, the NSW Greens have received a handful of donations as high as \$80,000, proving that it is possible for minor parties to attract large donations from individuals.<sup>5</sup> Donation limits, therefore, can have the undemocratic effect of entrenching the current players by introducing a new obstacle for challengers to face. It is for this reason that when Canada's Standing Senate Committee on Legal and Constitutional Affairs (2006b) was investigating whether to lower the donation limit for individuals from \$5000 to \$1000, of the seven minor parties whose representatives were interviewed, five were opposed to the change. Of the two parties who did not oppose the limit, only one was in full agreement with the Bill. The other party was not opposed to the limit in principle, but did oppose the fact that increased public funding was made

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<sup>5</sup>See <http://www.democracy4sale.org/index.php>  
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available only to parties who received a certain number of votes. In effect, the major parties were increasing the level of public funding in order to shield themselves from the adverse effects of the spending caps, but using the public funding threshold requirement to restrict the ability of minor parties to secure funding. Minor parties were therefore hampered in their ability to collect both private *and* public money. (Despite these arguments, the bill was passed.)

A cap set at a sufficiently high level would avoid creating this undemocratic effect. However, there is uncertainty as to what constitutes the appropriate level. The Greens (2007) suggest capping individual donations to \$10,000 per annum, while the Australian Democrats once suggested \$100,000 (Australian Democrats, 2004). (A more recent Democrat action plan makes no mention of donation caps (Australian Democrats, 2007)). If a donation limit is required, then the Committee could consider creating a cap which only applies to those parties holding a significant number of seats. Better yet, the relevant parties could make an agreement between themselves, renewed every election period, thereby removing the chance of placing a discriminatory cap on political parties.

Given that only a minority of people seek a political career, the undemocratic consequences of a low donation limit could *possibly* be justified if personal donation limits removed the perception that money buys decisions. However, history has shown that the perception will persist because of the second method of avoiding donation restrictions - bundling. Corporate executives can hold fundraisers and invite managers to donate the maximum amount – possibly suggesting that compliance will result in a bonus that will more than compensate the financial outlay. Unions can donate large sums of money by collecting small amounts from their members. Entire boards of

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directors may contribute the maximum using their own resources. The fatal flaw with attempting to remove perceptions of corruption through donation limits is that even when the law is obeyed in both letter and spirit, the perception does not disappear. Instead, the object of suspicion merely changes from large donors to large *groups* of donors. The sheer difficulty involved in attempting to prevent bundling, combined with the belief that parties need corporate donations to function, has led Pierre F. Côté, former Chief Electoral Officer of Québec to recommend against prohibiting corporate donations (Standing Senate Committee on Legal and Constitutional Affairs, 2006a).

To make things worse, donation caps on personal contributions can be deployed as political weapons. Commissioner Bradley A. Smith (2003, p.189) of the Federal Election Commission (FEC), provides one such example:

In the summer of 2000 Mike Ferguson's aging and ill parents established a trust fund, providing for substantial sums to go to each of their four children upon the attainment of 30 years of age, the completion of a bachelor's degree, and marriage. Shortly thereafter, Ferguson became the first of the siblings to qualify for trust distributions, and he promptly spent a substantial sum of this inheritance on his campaign for Congress. A prominent political operative for the opposing party then filed charges with the FEC, alleging that because the trust was not established until after the November 1998 start of the 2000 election cycle, the funds constituted an illegal contribution from Ferguson's parents to his congressional campaign. The Commission agreed and found probable cause that Ferguson had violated the law. Facing civil prosecution by the federal government, Ferguson agreed to pay a \$210,000 fine to the Federal Election Commission. Ferguson's case is not unique. In fact, in recent years the FEC has, with some regularity, fined parents for contributing too much to their children, children for contributing too much to their parents, and husbands for contributing too much to their wives.

Commissioner Smith (2003, p.197) notes that compounding the absurdity of the situation is the fact that:

... when Mike Ferguson's parents established a trust that eventually provided Ferguson with money he spent on his congressional campaign, they were not attempting to gain a political favor. In fact, had they sought a political favor, it

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would have made more sense to keep the money, with the threat of writing young Ferguson out of the will, than to give him the money and lose control over his conduct. Oddly enough, this course would have been perfectly legal.

The truly sad thing is that Ferguson's story does not strike Smith as the most ridiculous case he has come across. Lynch (2001) records that the Commissioner gave that dubious honour to this story:

A candidate for Congress took out a loan and put the money into her campaign. Her husband co-signed on the loan. Of course, you can contribute as much of your own money as you want to your campaign. But once the husband co-signed on the loan, we deemed it to be half his money. So when she dumped it all into her campaign, we said that meant he contributed more than the legal limit and we had to fine him...

A final problem involved in donation limits is that they reduce the supply of funds without reducing the demand for money (Sullivan, 2000). In some democracies, the effect of donation limits is to force politicians to spend more time and effort seeking supporters. Smith (1997) quotes a vice-presidential candidate as likening the process of gathering funds whilst observing a \$US1000 donation caps as 'filling a swimming pool with a teaspoon.'

Another way of avoiding donation restrictions is for corporations to pay to launch advertising campaigns. These campaigns could not be explicitly political – or else they would be gift-in-kind donation – however, companies may follow US example and create advertisement that border between issue advocacy and political advocacy. Fortunately, it is unlikely corporations would resort to this method in Australia as any corporation that attempts to assist one party by attacking the other, risks alienating the future government.

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## **Policy Option 4: Replace Corporate Donations with Public Money**

An alternative that appears very attractive in light of the previously mentioned problems is to fully finance all political parties with public money. If political campaigns were all fully publicly funded, there would be no need for donors. Aaron Gadiel (2008), representing the Urban Taskforce Australia, has called for a complete blanket ban on donations from *all* sources, with political parties receiving their campaign budget in the form of public money allocated according to electoral success. We strongly recommend against pursuing this course of action as that would virtually deprive citizens of their right to stand for election or attempt to form new political parties. Without the ability to raise support from others, it would be impossible to attempt to form new parties unless one or more of the candidates possessed significant personal wealth.

Fortunately, this rather large flaw in the complete blanket ban idea has a simple solution – at the start of each election period, give parties a choice of participating in the blanket ban. Those parties who do not agree to observe blanket ban rules are permitted to raise their own support, supplemented with an appropriate amount of public money. Those parties who do agree to observe blanket donation bans are eligible to receive an appropriate amount of money per first preference vote. The amounts should be set such that parties have incentive to participate in a blanket ban program if they ever become popular enough to do so.

Unfortunately, there are further problems. First, this system compounds electoral advantages. The victor in one election would not only have the advantages of being in government and having a greater aggregate amount of parliamentary stationary entitlements to use for electioneering purposes, but would now have a larger

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campaigning budget. Second, if there is any public funding program capable of severing the links between political parties and the people they represent, it would be this one. With members unable to donate, there would little purpose in having any more members than the number needed to qualify for party benefits. Indeed, money spent on maintaining a membership base could be viewed as a drain on electioneering budgets, providing a *disincentive* to recruit members. A third problem is that years of reliance on a complete blanket donation ban system may give rise to a generation of candidates and campaign managers who are unused to soliciting funds from the public and a public who expects that parties will rely on state funding. If a party experiences a sharp decrease in its electoral fortune – which is a risk when a minor party becomes a ‘medium’ party - it may be very difficult to regain lost ground.

Our suggestion of how to mitigate these three problems is to allow parties to financially profit from establishing membership bases. For example, the registration of a member may entitle parties to receive an amount of additional funding equal to half the membership fee. (Parties should not receive amounts higher than the fee, or else that would create incentive to pay people to join as members.) The membership incentive system would preserve a link with the community while providing an incentive for recruiting and maintaining members. We suggest that parties who accept blanket donation bans be required to place a fairly low limit, adjusted for inflation, on the membership fee that they can charge in order to avoid resurrecting the problems of large donors buying influence. Parties who do not accept blanket donation bans should be permitted to set their membership fees as high or low as desired.

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Allowing parties to benefit from recruiting members will mean that people are once again able to give money to political parties. We would argue that despite this flaw, it is still possible to justify the program if one abandons the hopeless attempt to *eliminate* the influence of corporate money, instead focusing on *mitigating* the risk caused by corporate money. This system is designed as a compromise to simultaneously mitigate the risk of undue influence and the alienation of parties from the public. Undoubtedly, it will not completely succeed in eliminating either of these concerns, but it does attempt to lessen the chance of undemocratic outcomes occurring than at present. Further, if critics complain that corporate managers will join party membership *en mass* and use their combined numbers to influence political decisions, the system contains an inbuilt defence mechanism - such critics can join as party members. If it really is the case that a small minority are manipulating politics in ways that are not beneficial to the majority, then the appropriate response would be for the silent majority to sign up as well and be heard.

A less obvious potential problem is that the rise of a complete blanket donation ban system could see the ‘Americanisation’ of Australian politics. With the major political parties only permitted to spend public money, there is a chance that people who want their side to win – most likely the party’s own candidates – would now have a reason to form US-style political action committees (PACs) formed for the sole purpose of electioneering. Given that Australia does not have a strong tradition of third party advertising, it is possible that Australia will not follow the US. If Australia did follow the US, however; and if corporations began donating to these PAC, the effects could be devastating. Not only would fears concerning undue influence be resurrected, but electioneering would be undertaken by PACs independent of the political parties,

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meaning that the parties can no longer be held accountable by voters whenever campaigns are false, misleading, or just plain dirty.

The only possible way to avoid this problem – should it occur - is to limit or prohibit expenditure on political electioneering campaigns. (Even then, short of banning the media from discussing politics, media barons would still be permitted to exert significant influence.) Australians may be generally apathetic in regards to politics. Despite this, we strongly recommend against banning political speech. Such rules would make elected representatives immune from criticism and accountability to the public. Such laws can be abused, as the following example provided by Glasser (2000) shows:

In early 1972, three elderly individuals with no connection to any candidate or political party published an advertisement in The New York Times that condemned the secret bombings of Cambodia by the U.S., called for the impeachment of President Nixon and printed an honor roll of those members of Congress who had opposed the bombings. The honor roll included Senator George McGovern... However, it violated a federal campaign finance law, which effectively barred expenditures for such ads on the grounds that they might influence the upcoming presidential election by criticizing President Nixon and applauding one of his possible opponents, Senator McGovern...

On the basis of this law, the U.S. government sued the three in federal court. It sought to enjoin them from publishing such ads, and it wrote a letter to The Times threatening The Times with criminal prosecution if it published such an ad again.

Soon after, the ACLU itself sought to purchase space in The Times in order to publish an open letter to President Nixon, criticizing him for his position on school desegregation. The letter made no mention of the election and indeed the ACLU has never supported or opposed any candidate for elective office and is strictly nonpartisan. Fearful of government reprisal based on the government's threatening letter from the previous case, the Times refused to publish the ad. The ACLU sued to challenge the law and The Times filed an amicus brief supporting us. In both these cases the government argued that barring such ads was necessary to achieve fair elections even though the rights of individuals to criticize their government would be curbed.

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A second method of attempting to use public money to mitigate the influence of donors on political decisions is to follow the lead of several American states and adopt a ‘clean money’ program. Briefly, clean money works in the following way. People wishing to stand for election as a clean money candidate must collect a small amount of money (usually \$5 to \$20) from a certain number of people (usually 200). Upon completion of this task, candidates are allocated public money in accordance to the relevant state laws. Sometimes states grant candidates a flat sum and forbid them to receive further donations or use their own money for campaigning. Other states allocate candidates matching funds, which means that for every dollar the candidate raises, the state will contribute a specified amount. Candidates receiving matching funds are required to observe a spending limit and very low donation caps. In order to avoid elections being won or lost by third parties submerging a campaign (as third parties are not constrained by spending limits and may spend as much they want to defeat opponents) clean money candidates may apply to the Clean Money Council for extra money to match the advantage opponents enjoy (cf. Americans for Campaign Reform, undated; Public Campaign, undated).

Clean money has its share of both advocates and critics. The United States General Accounting Office (2003) has undertaken a detailed study of clean money in both Maine and Arizona and has found conflicting views. Several note-worthy quotes concerning candidates’ experiences of the system are reproduced in the Appendix, with the key points being summarised below:

1. There is dispute over whether clean money produces candidates free of any conflict of interest. Some argue that the only way candidates will meet the

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requirement is to become involved with special interest groups. Others believe that they can obtain signatures without relying on special interest groups.

2. There is dispute over whether the requirements are appropriate. Some argue that the requirements are too harsh; while still others argue that the requirements are too easy to meet using friend and family networks. Some candidates stated that it was easier to raise sufficient funds using traditional methods rather than qualify for clean money.
3. There is very little to stop candidates working as 'tag teams'. A group of insincere candidates may use their electioneering money purely to attack the other candidates whilst one of their friends runs a real campaign.
4. Some complain that the matching of funds, provided to counter the influence of third parties, creates ridiculous situations. Traditional candidates have to spend time and money finding supporters whilst clean money candidates do not. The result of this is that clean money candidates can receive greater benefit from donations than others who must raise funds personally.
5. The biggest complaint concerns the program's administration. The Clean Money Council was accused of discriminating against traditional candidates by requiring them to fill out comprehensive paperwork daily. Other traditional candidates had their campaigns disrupted when they were subjected to random audits.

Despite its problems, the clean money example might offer some options for public funding of candidates in Australia. The Committee may want to consider whether it would be worth allowing candidates the option of forgoing the right to receive public money based on first preferences votes and instead receive money upon collection of a

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number of small donations from people in their electorate. We do advise that parties be permitted to continue receiving public funds under the current system if they so choose. This would avoid disadvantaging any party.

### **6. An Alternate Source of Public Funding: A Candidate Website**

One alternate source of public funding that may be worth exploring is that of webhosting. The NSW Election Commission (or another agency) could maintain a candidate website index, with candidates grouped by electorate. Users would select their electorate and be provided with a link to the personal website of every candidate participating in that election (who has a website). The provision of a content management system would be sufficient to ensure that any candidates capable of using a word processor can design their own site. Candidates would also have the option of retaining the services of a professional webpage designer or choosing not to have a webpage. The point of this website would be to provide a well known and easily accessible forum in which candidates can place whatever information they want into the public domain – youtube style videos stating why they should be elected; policy statements; responses to news items; video character references from friends and family; or whatever they choose.

Although many candidates already have their own websites, it would be still be advantageous for the NSW Electoral Commission to maintain such a site because it could encourage people to look at candidates' personal webpages. People are more likely to look at candidate webpages if they can access them easily by going to one well

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known website, than if they have to search for every candidate's webpage separately. Further, if the existence of the website were advertised before the election period, candidate webpages would be viewed by people who never considered looking for election information on the web. Some people will browse simply out of curiosity, while others will feel that they have a civic duty to consider to what the different candidates have to say. If such a website were designed, it should have its own web address, for example, [mycandidates.nsw.gov.au](http://mycandidates.nsw.gov.au) for easy access.

Such a website might be visited only by a few and have little impact on election results. However, it is not only the effect of the information that is important but also the principle that it be available. The primary reason to create this website is to make a more level playing field. All players – big and small – would have a forum that is considered easily accessible; where they can communicate everything they choose to say; and where those who want to listen can do so. Even if society in general chooses not to use this resource, the system has not necessarily failed. Democracy places responsibility on the individual to decide how much effort they will invest into deciding who shall lead.

Provision would have to be made to prevent insincere candidates from placing inappropriate material on these webpages – such as a certain stripper who used her candidacy to advertise her pornographic website (Orr, 2004). Nevertheless this type of public funding can be made available to all candidates and the cost of insincere candidates using it is minimal.

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## 7. Disclosure Requirements for Political Contributions

There have been calls from people such as the Australian Democrats (2007) and Young and Tham (2006) for greater accountability and transparency with regard to political donations. We hold the opinion that if possible, donation information should be made available before an election. However, it is important to ensure that any proposed changes to disclosure regulation are reasonable and never excessive. Constructing an overly-complex system of disclosure can have the effect of discouraging political action. When the Committee is forming its view on disclosure provisions, we would ask that consideration be given to the lesson embodied in the following true story provided by FEC Commissioner Smith (2003, pp.187 - 189).

Liles and a friend, one Mark Morton, decided to make a sign supporting... George W. Bush....They obtained a large plywood board, hired a professional sign painter, and mounted the finished product on the side of a cotton trailer... [In doing so, they] violated 2 U.S.C. § 441d(a), by failing to include a disclaimer on the sign stating who had paid for it, and whether or not it was authorized by the candidate...If the group spent in excess of \$250 (quite likely when one includes the cost of the wood, the in-kind value for the use of the cotton trailer, and the cost of hiring a professional sign painter) the group would also have violated 2 U.S.C. § 434(c)(1) by failing to file reports with the Federal Election Commission... if any individual donated in excess of \$50, it would have violated the limit on anonymous contributions... If Mr. Bryant's cotton trailer was titled in the name of a corporation—perhaps his own Subchapter S corporation—lending it to the group would have violated the prohibition on corporate contributions of 2 U.S.C. § 441b. Total statutory penalties could have easily exceeded \$25,000.

At about the same time that Liles and Morton were preparing their sign, a group of law students in Columbus, Ohio, decided to launch an organization called “Law Students for Bush-Cheney.” As they made preparations for their first meeting, the group's faculty adviser cheerfully mentioned their plans in a casual conversation with a lawyer familiar with federal election law. “Well, be careful not to spend more than \$250 advocating their election,” said the latter, “or you'll have to file reports with the Federal Election Commission.” Planning for the group ground to a halt.

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Smith (2007) records with sorrow that attempts to blunt the influence of big spenders using US campaign finance reform have now made politics out of reach of ordinary citizens who are not rich enough to retain professional campaign finance lawyers. He provides the following reflection about the personal toll political accountability has exerted on its citizens:

While serving on the FEC from 2000 to 2005, I kept a file of letters from political amateurs caught in the maw of campaign finance laws...

A CPA who had served as a volunteer campaign treasurer, and who was facing over \$7,000 in fines for improper reporting, wrote: "No job I have ever undertaken caused me more stress than this one. I was frightened and concerned every day that I would do something wrong."

Another volunteer treasurer asked the Commission to waive its fines: "We were just honest, hard working, tax paying Americans who wanted to make a difference . . . at this point, we are so disillusioned with the [legal] difficulty of running for office that we wonder why anyone other than a professional would attempt to do so."

...One summed up: "I will NEVER be involved with a political campaign again." (Smith, 2007)

No-one disputes that appropriate accountability regulation should be put in place. However, one of the essential requirements of appropriate accountability is that ordinary people should be capable of fulfilling the requirements. We believe that the current party disclosure threshold of \$1500 is sufficient, but that the disclosure thresholds of groups and candidates should be increased to \$1500 in order to cut out unnecessary paperwork.

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## 8. Conclusion

This submission outlined the options that the Committee has at its disposal for dealing with corporate donations. We have sought to show that there is no perfect solution. Our recommendations are as follows:

1. If politicians can be trusted not to seek out loopholes in the political finance system, the best option is to fully finance political campaigns. If politicians cannot be trusted not to seek out loopholes, but there is good reason to believe that all parties would be capable of functioning without corporate donations, then the next best option is to prohibit corporate donations. Failing that, the next best option is to place a moderate limit on corporate donations, such as \$5,000 or \$10,000.
2. The Committee should consider the viability of designing public funding qualification criteria based on the ability of candidates to successfully acquire small donations from a specified number of people in their electorate. This would permit candidates to receive money prior to the election when it is most needed. If this recommendation is adopted, in order to ensure no party is disadvantaged, parties should have the option of choosing to qualify for public funds either on first preference votes or through collecting token donations.
3. A candidate website index should be created. The existence of this site should be advertised during elections.
4. Disclosure thresholds for parties, groups and candidates should be set at low levels (such as \$1,500) in order to meet the demands of accountability without overburdening candidates with paperwork.



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The Committee should remember is that much of our research has concentrated on the US and Australian environments. We have not extensively examined the effect of political finance reform in other countries. It is entirely possible that limiting, prohibiting and/or replacing corporate donations has had greater success in other countries than it has in the US. The lessons of the US should serve more as a warning about the unanticipated side-effects of reform and not serve as reason for rejecting reform outright.

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## Appendix: Candidate Experiences of Clean Money

The following quotes from candidate questionnaires provide insight as into the virtues and criticisms of the clean money system:

Maine's current law does not adequately limit the behind-the-scenes roles played by the most powerful players, that is, the parties and their most powerful lobby groups—business, labor, National Rifle Association, abortion rights, etc. They put out the most blatant negative ads and literature. Successful candidates know exactly to whom they are beholden, even if the candidates received no money directly from these groups (United States General Accounting Office, 2003, pp.121-122).

With public financing, my interaction with traditional lobbyists changed; they had to pursue me. Some PACs seemed to automatically oppose me, even though I might have supported their issues. These entities seemed to respect only those candidates whom they could support financially. Arizonans seem well aware that the link between special interest money and special interest laws is strong and want to change it. Arizona and Maine are leading the way in the nation. Let's hope a federal clean elections law is passed (United States General Accounting Office, 2003, p.133).

In 2000, I ran with traditional funding. But, in 2002, because of an extremely wealthy candidate in my race, I chose to try the public financing program. It has been a disaster, and I would never do it again. It was easier to obtain sufficient money through fundraisers than to collect the \$5 contributions. Labor unions collected most of the \$5 contributions for Democratic candidates; there was not much work done by the candidates (United States General Accounting Office, 2003, p.133)

It was disappointing to see how tax dollars were spent by the participating candidates—computers and other equipment kept for personal use after the election, travel expenses, dinners out, and parties. It was a disgrace. (United States General Accounting Office, 2003, p.135)

Public funding can be used as an unfair weapon. In one primary in 2000, my publicly funded opponent obtained matching money and spent the entire amount on a smear campaign directed at me. The goal seemed not so much to win but to destroy my credibility in order to improve the chances of another competing candidate who had a similar political philosophy. Receiving six negative campaign flyers in the mail at one time—flyers that were publicly financed—was objectionable. (United States General Accounting Office, 2003, p.135)

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There is no level playing field. Those accepting taxpayer financing enjoy a tremendous advantage over those who raise money from friends and family in terms of actual cash available for campaigning, as well as advantages in reporting requirements, disclosure of campaign strategy, and the burden of horrendous IRS-style audits. My publicly funded opponent was given funds to communicate with voters to match money that I spent to pay taxes, fund official legislative business, and raise funds. A taxpayer financed candidate will generally enjoy a 25-percent cash advantage over a traditionally funded one. (United States General Accounting Office, 2003, p.135)

Arizona's Act requires traditional candidates to disclose to their opponents on a daily basis their every campaign activity during the heat of the campaign. This is information that the "clean" candidates keep secret until after the election. Think about filing your taxes every day, itemizing every expenditure, and making it available on the Internet for all to see. It's practically the same for candidates who refuse government funds, but not for those who accept them. The cost of compliance is immense, and the advantage given your opponent is insurmountable. Also, this year (2002), the Commission decided to randomly audit 10 traditional candidates during the campaign, even though there were no allegations of impropriety. This served only as a means for the government to distract the candidates from their campaigns in order to give yet another advantage to the preferred "clean" candidates. Also, the Commission zealously audited every candidate against whom a "clean" candidate complained, regardless of whether the complaint had validity or not. This just another "service" the Commission provides to the candidates it prefers. (United States General Accounting Office, 2003, p.138)

The Commission's red tape and subjective rulemaking are barriers to involvement. Constituents think the paperwork is ridiculous and a waste of time and would prefer to give me a \$100 check rather than mess with a \$5 contribution and paperwork. I stopped trying to qualify for public funds because I was taking 15 to 20 minutes to explain the program to voters rather than discussing issues. Also, the timeline for qualifying is absurd; funding can occur as late as 1 week before the election, which penalizes a participating candidate. The Commission has become an advocacy group that shoots from the hip publicly and has unclear rules and onerous obligations. The Commission has no accountability for its actions and is attempting to influence the outcomes of elections rather than simply reviewing the process. (United States General Accounting Office, 2003, p.138)

Maine now has a soft money problem where none existed before. Our campaigns are now much more expensive, and the races have more dirty politics than ever. Political action committees (PACs) spend the same or more money now—in addition to the "clean funds," doubling expenditures. The public can no longer trace the money being dumped into campaigns. Special interest groups and lobbyists are stronger here now more than ever because it is almost impossible to get elected without PAC expenditures. More issue advocacy and soft money move through the party organizations. This program was a bad move for Maine. (United States General Accounting Office, 2003, p.124)

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Having run as a participating candidate, I am convinced of the value of public financing of elections. Candidates have more time to spend with voters, adequate funds are provided for message delivery, and participants must demonstrate that they possess the bona fides of a serious candidate. (United States General Accounting Office, 2003, p.130)

Independent expenditures are the only trouble spot. I do not know how to solve it, except by requirement to file (maybe 6 weeks before the election) an “intent” to make expenditures on behalf of a candidate. It drove me crazy when a group in 2000 did a mailing on my behalf that misled voters on where I stood on the issue. I had no control over the mailing, which also resulted in freeing up money for my opponent to spend. (United States General Accounting Office, 2003, p.124)

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