



# **Fifty years of campaign finance study in Australia**

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The 50th anniversary of both campaign finance studies in Australia<sup>1</sup> and Australian electoral studies more widely defined<sup>2</sup> came and went apparently unnoticed in 2004. However in 2006 campaign finance has been a regular feature in the media. This is partly because of recent amendments to the Commonwealth Electoral Act, which have been criticised as fatally weakening the disclosure provisions applying since 1984, and partly because of scandals and what one might call notorious events. One such event was the disclosure of a million-dollar donation to one party by someone not resident in Australia. Others involved donations to candidates and parties at particular local government, State and federal elections. For the first time the public is taking an interest in what used to be a backwater of Australian politics.

What follows is an examination of the study of campaign finance so as to record and try to explain, first, its under-development as a component of electoral studies and, second, its more recent flowering in the adjacent and partly overlapping field of political finance. The latter has done well lately, primarily with the first comprehensive and analytical work,<sup>3</sup> but also with articles that obviously straddle the border between electoral studies and political finance<sup>4</sup> and others which have only a limited impact on elections.<sup>5</sup>

The first phase of the history of campaign finance studies begins in 1954 in Leicester Webb's account of the Communist Party referendum held in 1951, and ends more or less with that decade. It has been a commonplace that political studies in Australia at the middle of the 20<sup>th</sup> century were almost entirely derivative, relying on either British or American models. Two major works on campaign finance were then available from the United States, both published in 1932 and both products of the realist Chicago School.<sup>6</sup> The earlier was James Kerr Pollock's comparative study covering England, Ireland,

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<sup>1</sup> Leicester Webb, 1954, *Communism and Democracy in Australia: A Survey of the 1951 Referendum*, Melbourne, Cheshire.

<sup>2</sup> Henry Mayer and Joan Rydon, 1954, *The Gwydir By-election 1953*, Canberra, Australian National University; Rufus Davis and Colin Hughes, 1958, 'The literature of Australian government and politics,' *Australian Journal of Politics and History* 4(1), pp.120-21.

<sup>3</sup> Sally Young and Joo-Cheong Tham, 2006, *Political Finance in Australia: A skewed and secret system*, Canberra, Democratic Audit of Australia.

<sup>4</sup> E.g. Graeme Orr, forthcoming, 'Political disclosure regulation in Australia: Lackadaisical law,' *Election Law Journal*.

<sup>5</sup> E.g. Kate Jones, 2006, 'One step at a time: Australian parliamentarians, professionalism and the need for staff,' *Parliamentary Affairs* 59(4), pp.638-53.

<sup>6</sup> Bernard Crick, 1967, *The American Science of Politics* (Berkeley, University of California Press), p.xiv.

Germany and France and based on three field trips to Europe.<sup>7</sup> The obvious reviewer was Joseph P. Harris who by then would have been engaged on his pioneering and, alas, never replicated work on electoral administration.<sup>8</sup>

Harris observed that Pollock:

[v]ery properly prides himself upon the fact that his findings are not based upon a study of musty documents, reports of commissions, or speculations made in the confines of his own study, but are based instead upon first-hand investigations and interviews with politically informed persons in the several countries.<sup>9</sup>

Such an approach lay at the heart of Chicago School research. Relevant to any future work in Australia was Pollock's conclusion that England had found an apparently satisfactory solution for money in politics, unlike other countries where advantageous places on party lists were sold to persons or organisations of wealth. He also anticipated the Joint Standing Committee on Electoral Matters in using the traditional saying that 'whoever pays the piper may call the tune.'<sup>10</sup>

The second work, published in the same year, was Louise Overacker's comparable study of the United States.<sup>11</sup> It had its origins in research already undertaken by Victor J West of Stanford where she had received her BA, and its contents were influenced by West's preliminary choices. Pollock's review thought well of its sound opinions, pages full of meat and an original purpose well fulfilled.<sup>12</sup> Overacker subsequently published an article on campaign finance in the 1932 presidential election in the United States that remains well worth reading today.<sup>13</sup>

But when Overacker came to Australia in 1946–47 to conduct research for her pioneering book on Australian political parties Leicester Webb was still in New Zealand.

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<sup>7</sup> James Pollock, 1932, *Money and Politics Abroad* (New York, Knopf).

<sup>8</sup> Joseph Harris, 1934, *Election Administration in the United States* (Washington, Brookings Institution); see Colin Hughes, 2000, 'Electoral research and administration: A brief history,' in eds. Jane Peace and Janet Taylor, *Electoral Research: The Core and the Boundaries* (Adelaide, South Australian State Electoral Office), p.16.

<sup>9</sup> Joseph Harris, 1932, Review [Pollock, 1932], *American Political Science Review* 26(4), p.733.

<sup>10</sup> JSCEM, 1989, *Who Pays the Piper Calls the Tune – Minimising the Risks of Funding Political Campaigns* Canberra, AGPS.

<sup>11</sup> Louise Overacker, 1932, *Money in Elections* (New York, Macmillan).

<sup>12</sup> James Pollock, 1933, Review [Overacker, 1932], *American Political Science Review* 27(1), pp.122–24.

<sup>13</sup> Louise Overacker, 1933, 'Campaign funds in a depression year,' *American Political Science Review* 27(5), pp.269–83.

Overacker recorded some generalised propositions about the sources of party funds,<sup>14</sup> but in the chapter entitled ‘The Party Battle’ after setting out the statutory requirements for Commonwealth elections she went on to say:

In the absence of satisfactory data about campaign funds one can do no more than piece together fragmentary bits of information of very limited significance. ... The unsatisfactory character of available data may explain why no study of Australian campaign finance has been attempted. Crisp in his excellent study of *Parliamentary Government in Australia* dismisses the subject in one brief paragraph.<sup>15</sup>

Crisp's paragraph had argued that as Australian elections required ‘commercial publicity work’ they required money, which advantaged the wealthier elements, and set out the Commonwealth’s statutory provisions with the comment that they were difficult to police.<sup>16</sup> There was the enduring problem: the only available data were highly suspect and very few in number compared with what Overacker had to work on in the United States.

It is not possible to say with absolute certainty, but I think it most likely that Webb’s model was English, of which the earliest version was Appendix V to the first Nuffield election study, 2.5 pages entitled ‘Election Expenses’.<sup>17</sup> Two more volumes of the well-received Nuffield series were already in print by the time Webb wrote, although by then the status of campaign finance had been demoted from an appendix of their own to slightly longer parts of chapters on election law and campaigning in the constituencies respectively.<sup>18</sup> As the Australian legislation followed the British, so it engendered the same sort of figures. By the 1959 election Nuffield study ‘election expenses’ had been reduced to 1.5 pages, but there was now an injection of American realism which used words like ‘subterfuges, some plainly legal, some more dubious’ and ‘it is unfortunate the law should be so much circumvented’, and concluded ‘the important problems relating to election expenses now rest, not on the constituency, but on the national level, where

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<sup>14</sup> Louise Overacker, 1952, *The Australian Party System*, New Haven, Yale University Press, pp.217, 232. 255–57.

<sup>15</sup> *Ibid.*, p.283 and n.24.

<sup>16</sup> L F Crisp, 1949, *The Parliamentary Government of the Commonwealth of Australia*, Melbourne, Longmans Green, p.65.

<sup>17</sup> R B McCallum and Alison Readman, 1947, *The British General Election of 1945* (London, Oxford University Press).

<sup>18</sup> H G Nicholas, 1951, *The British General Election of 1950* (London, Macmillan), pp.14-21; David Butler, 1952, *The British General Election of 1951* (London, Macmillan), pp.139-40.

increasing sums are spent without being subject to any legal control.’ That message is repeated at similar length in an Appendix entitled ‘The Condition of Electoral Law’.<sup>19</sup> The data still limited the possibilities of American-style writing.

The study of particular Australian elections starts about the same time as Webb was writing about the Communist Party referendum. The first monograph, about a by-election in a rural federal electorate, could not produce data equivalent to those from Webb’s national referendum or the British national elections. It does though remind readers what a different, local, frugal political world still existed at the middle of the 20<sup>th</sup> century.<sup>20</sup> Money was raised and spent locally; often some was sent to help State offices; Federal and State elections in close proximity could cause problems. The local equivalents of British legislative provisions that concentrated on the constituencies and ignored national or statewide politics still had some relevance, but the amounts set by the Commonwealth’s statutory limits were already meaningless even at the constituency level:

a minor nuisance for candidates and campaign directors and for authors and commentators. For the law, though too restrictive to be observed, remains too much in force to be flouted openly. As a result, it is difficult to discuss election expenditure without a profusion of subjunctives and other circumlocutory devices.<sup>21</sup>

Campaign finance in a metropolitan electoral district, when that got reported, was only slightly different.<sup>22</sup> Then the advent of television with its expensive advertisements began to change things. By the middle of the 1960s more information began to be accessible outside the statutory framework:

The [1965] election was the costliest of any state campaign. The Liberals spent twice as much and the ALP a third more in 1965 than they had in 1962 and about 45 per cent of this was spent on TV advertisements. Indeed the Liberal Party’s 1965 expenditure was about three times the amount the party normally spent in NSW on a federal campaign. Both parties spent roughly 15 per cent, 35 per cent and 50 per cent of their advertising budgets on radio, press and television advertising respectively.<sup>23</sup>

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<sup>19</sup> David Butler and Richard Rose, 1960, *The British General Election of 1959* (London, Macmillan), pp.144-45, 280-81.

<sup>20</sup> Mayer and Rydon, *The Gwydir By-election 1953*, p.132.

<sup>21</sup> Donald Rawson and Susan Holtzinger, 1958, *Politics in Eden-Monaro*, Melbourne, Heinemann, p.71, and pp.52-53, 71-73, 103-05.

<sup>22</sup> Creighton Burns, 1961, *Parties and People*, Melbourne, Melbourne University Press, p. 45.  
John Power (ed.), 1968, *Politics in a Suburban Community*, Sydney, Sydney University Press, p.24.

The requirements imposed on radio and television proprietors by the Broadcasting and Television Act also generated some evidence about expenditure, but this appeared only in the annual reports of the Australian Broadcasting Tribunal, which were usually ignored by political commentators.

The closest thing to Webb's overview of a national campaign, and to the Nuffield general election precedents, was the first, and for many years only, monograph devoted to a federal general election, that held in 1958. The author, Don Rawson, was then at the ANU and had recently been at Nuffield, albeit studying trade unions. Once more the statutory provisions were summarised and their defects set out:

These were, of course, preposterously low figures, and no one seriously supposed that they were observed. There was thus no effective legal limitation on the amount which could be spent on a campaign.<sup>24</sup>

The data required by statute had been given such a bad name in both England and Australia as to discourage attempts to see if anything could be salvaged from the debris. Much later it proved possible to construct a very plausible tale for Britain from a variety of sources,<sup>25</sup> but it remains doubtful whether a comparable work could ever be done for Australia.

But by the end of the 1950s political science had become more global and what might be thought to be a second phase of campaign finance studies began. An International Political Science Association had been formed, and in 1961 the International Study Group on Political Finance had its first meeting at the Paris Congress of IPSA. The intention was to work for the development of 'large-scale conceptual frameworks' in political science. The Study Group's acting chair was Arnold Heidenheimer and Richard Rose became his collaborator on its first project. This took the form of an international symposium which would, however, omit the United States because Alexander Heard's recent book<sup>26</sup> had traversed that ground and because Herb Alexander and his Citizens' Research Foundation in New Jersey had begun the work that would be the dominant

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<sup>24</sup> Donald Rawson, 1961, *Australia Votes*, Melbourne, Melbourne University Press, p.61.

<sup>25</sup> Michael Pinto-Duschinsky, 1981, *British Political Finance 1830-1980*, Washington, American Enterprise Institute.

<sup>26</sup> Alexander Heard, 1960, *The Costs of Democracy*, Chapel Hill, University of North Carolina Press.

influence on American studies for the next 40 years. The chapters of the symposium were to use ‘a basic set of questions about party membership, income, expenditure, subsidies, laws and campaign costs.’ The scope of those questions had expanded a bit from a narrow definition of campaign finance, but were still well short of a definition of ‘political finance’ that is the usage now.

Heidenheimer and Rose wrote to Webb, though whether as head of the Department of Political Science, RSSH, ANU, or as an author already in the field is unknown, seeking an Australian chapter. Colin Hughes had just arrived in the Department, and as Webb pointed out ‘had a clean desk’. He contributed a 17-page chapter drawn from a miscellany of sources and trying to cover both Federal and State elections although:

Among the states prescribing maximum expenses for candidates at a level high enough for the returns to be truthful, South Australia alone publishes figures.<sup>27</sup>

As for the Commonwealth, returns of the sort that Webb and the Nuffield series relied on were available for only six months after the election to which they related. Thus the 1961 election, which had so nearly ended the Coalition hegemony a decade early was already lost for data collection and nothing could be said.

That experience ensured that by the 1963 federal election the collaboration of several interstate colleagues allowed an examination of a full set of returns for what was apparently the first time.<sup>28</sup> It tended to confirm the *Sydney Morning Herald’s* (9 May 1964) estimate that the total bill was between \$600,000 and \$800,000 which might suggest that sometimes good journalism can be as effective as formal political science. It also provided some novel insights into Australian politics e.g. the Communist Party’s returns appeared to be the most reliable, presumably because of the probability which political party would be the first prosecuted for breaches of the legislation if it ever happened

The Commonwealth soon substantially increased the charge for examining each return. The then Chief Electoral Officer, Frank Ley, assured Hughes that this was a consequence of the Commonwealth’s general policy of cost recovery and not an intention to stifle

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<sup>27</sup> Colin Hughes, 1963, ‘Australia,’ *Journal of Politics* 25(3), pp. 657.

<sup>28</sup> Colin Hughes, 1964, ‘The cost of the 1963 Federal election,’ *APSA News* 9(2), pp. 2–5.

research into a sensitive subject that would inevitably document massive breaches of electoral law, but it did turn any attempt to extract the data contained in the official returns into a major project by the standards of those cash-strapped times in academe. For the 1966 election an attempt to match funds from News Limited with interstate academic cooperation fell apart. So far as is known, the official returns *en masse* were thereafter ignored until data for the 1975 and 1977 elections were reported by the Australian Electoral Office to the Harders inquiry. In 1975 60 per cent of candidates lodged no return, and for 1977 66 per cent. Only 24 and 20 per cent respectively lodged returns showing expenditure within the limits, 12 and 8 per cent showed no expenditure, and 4 and 6 per cent showed expenditure above the limits.<sup>29</sup> It should be added that, following the 1964 Senate-only election, a petition based on excessive expenditure was actually lodged but it fizzled out after a short hearing.

In 1981 publication of a series of Attorney-General's Opinions cast new light on the deficiencies of the returns.<sup>30</sup> When the question had been put whether an unsuccessful candidate for the Senate at the 1910 election should be prosecuted for failure to lodge a return, the then Chief Electoral Officer minuted that 'it had not been the practice to prosecute unsuccessful candidates who have failed to furnish returns.' The Attorney-General, W M Hughes (or his advisers) observed that as the return was necessary in the public interest, the Department of Home Affairs, then responsible for electoral matters, would have been justified in taking action 'if it thought fit to do so' which was a matter for the Department. He, or they, added that it was not usual to depart from a practice unless there was some ground for thinking the practice was not a good one. Pressed for further advice, the Attorney-General's reply was that it was for the Department 'and no other' to decide whether to take action and if so, what action. There the matter rested.

The last gasp of the second cycle of campaign finance studies to reach academic print may have been the Australian section of a note on 'control of electoral expenses' in a British journal, part of which had the sub-title 'General non-compliance with the Act' but added:

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<sup>29</sup> Sir Clarence Harders, 1981, *Inquiry into Disclosure of Electoral Expenditure*, Canberra, AGPS, p.83.

<sup>30</sup> Patrick Brazil (ed.), 1981, *Opinions of the Attorneys-General of Australia, Vol.1*, Canberra, AGPS, pp.499-500.



Yet it would have been impossible to argue convincingly that any candidate or party secures undue advantage by excessive expenditure in any particular constituency, in a state, or in Australia generally.<sup>31</sup>

In retrospect it can be concluded that during the first two phases the topic of campaign finance was never of more than marginal significance, and what could be done with it well short of any standards of science expected of the political science of the day. Thus the topic received little attention and that was dismissive.

The third cycle has been quite different because at least four developments had expanded and enhanced the output. First, the system of legislative regulation itself changed. One major party, the ALP, became committed to electoral reform and its reform program included effective disclosure of campaign finance, covering both donations and expenditure.<sup>32</sup> However, it was unable to pass the necessary legislation before 1983 and in the interim, there was the ‘Great Denison Disaster’. The voiding of the 1979 State election in the seven-member seat of Denison was brought about by a petition alleging breaches of Tasmanian law on expenditure limits.<sup>33</sup> The Fraser Government swept away the equivalent Federal requirements lest the disease spread and commissioned an inquiry into what might be put in their place. The resulting report<sup>34</sup> set out a reasonable scheme, which the Hawke Government’s legislation closely resembled, but the Fraser Government did nothing about implementing it. Two States with the British model of expenditure limits had previously repealed their versions, South Australia in 1969 and Western Australia in 1979.

Second, a new American *deus ex machina* had appeared for a time: Howard Penniman who had an international template for the series of Australian election studies he edited<sup>35</sup> as part of a wide international program. In the second and third of these the title ‘Campaign expenditure’ is used for part of a wider chapter. In the first there is the well-

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<sup>31</sup> Colin Hughes, 1969, ‘Australia,’ *The Parliamentarian* 50 (40), p. 289.

<sup>32</sup> Gough Whitlam, 1985, *The Whitlam Government 1972-1975*, Ringwood, Penguin, pp. 681–82.

<sup>33</sup> Attorney-General for Tasmania v Liberal Party of Australia, Tas. Division; Attorney-General for Tasmania v ALP; Attorney-General for Tasmania v Australian Democrats, Supreme Court of Tasmania, Nettlefold J, 27 March 1982 (unreported).

<sup>34</sup> Harders, *Inquiry into Disclosure of Electoral Expenditure*.

<sup>35</sup> Ed. Howard Penniman, 1977, *Australia at the Polls* (Washington, American Enterprise Institute), pp.98-102; ed. id., 1980, *The Australian National Elections of 1977* (Washington, AEI), pp.327-30; ed.id., 1984, *Australia at the Polls: The National Elections of 1980 and 1983* (Sydney, Allen & Unwin), pp.236-38.

worn explanation of why so little can be said generally, followed by an account of the remarkable Iraqi fund-raising affair. Post-Penniman the, now regular, book-length accounts of federal elections have been less concerned with campaign finance, perhaps because it was widely believed for a time that public funding and more effective disclosure provisions had reduced, or even eliminated, any partisan advantages which might have prevailed in the past. An exception, for the 1990 election, was a 3.5 page section entitled 'Campaign Expenditure' which might best be seen as a failed attempt to resurrect the Penniman approach.<sup>36</sup> Nevertheless it was widely agreed that the character of general elections was changing and with it their cost. For example, following the 1987 federal election it was noted that:

Campaigns in the past twenty years have shown a trend towards a style most developed in America ... and increasingly dominated by the professionals from the advertising, marketing, image-making, and even the theatrical world.<sup>37</sup>

The old localised and cheap campaigns had become centralised and expensive.<sup>38</sup>

Third, international symposia on elections were likely to contain a chapter on campaign finance.<sup>39</sup> Similarly, international symposia on campaign finance usually contained an account of Australian experience written by an Australian political scientist.<sup>40</sup> Attention to the topic was now expected, though where it might be published remained open.

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<sup>36</sup> Colin Hughes, 'The rules of the game,' in Clive Bean, Ian McAllister and John Warhurst (eds), *The Greening of Australian Politics*, Melbourne, Longman Cheshire, pp.151-54.

<sup>37</sup> Dean Jaensch, 1988, 'The Liberal Campaign,' eds. Ian McAllister and John Warhurst, *Australia Votes: The 1987 Federal Election*, Melbourne, Longman Cheshire, p.73; see also David Butler and Austin Ranney (eds), 1992, *Electioneering* Oxford, Clarendon Press.

<sup>38</sup> Rodney Cavalier, 2002, 'Reflections,' in John Warhurst and Marian Simms (eds), *2001: The Centenary Election*, Brisbane, University of Queensland Press, pp.105-14.

<sup>39</sup> E.g. Kyyam Paltiel, 1981, 'Campaign Finance: Contrasting Practices and Reforms,' in David Butler, Howard Penniman and Austin Ranney (eds), *Democracy at the Polls: A Comparative Study of National Elections*, Washington, AEI, pp. 138-72.

<sup>40</sup> E.g. Ernest Chaples, 1989, 'Public funding of elections in Australia,' in Herbert Alexander (ed.), 1989, *Comparative Political Finance in Australia*, Cambridge, Cambridge University Press, pp. 76-94; Ernest Chaples, 'Developments in Australian Electoral Finance,' in Herbert Alexander and Rei Shiratori (eds), 1994, *Comparative Political Finance Among the Democracies*, Boulder, CO, Westview Press, pp.. 29-40; Colin Hughes, 2001, 'Election Finance Controls: Is There an End Game?', ed. Karl-Heinz Nassmacher, *Foundations of Democracy: Approaches to Comparative Political Finance*, Baden-Baden, Nomos, pp. 206-21.

Comparisons between US and Australian provisions have also been appearing in the mass media, sometimes to point to serious limitations in Australian controls.<sup>41</sup>

Fourth, the government of New South Wales, a State in which the British model had not been adopted, acted in 1981 to introduce a modern system of regulation with comprehensive disclosure of income and expenditure, and public funding to encourage rectitude.<sup>42</sup> Soon the Commonwealth and several other States had followed suit, and at long last a substantial flow of much more reliable and extensive statistics could begin. Unfortunately this did not produce more substantial writing about campaign finance in the instant histories of particular elections, either Federal or State. The legislation that required disclosure of basic income and outgo data was written, and often re-written, with priority given, so it was said, to the needs of party officials doing their main job of running an election. The consequent readiness to postpone collecting accounts and adding up figures until the dust had settled—15 or 20 weeks after polling day were the statutory requirements—produced a fatal clash of timetables. Books about a general election need to appear quickly, at least for the Australian market. Incidentally journalism was also badly served. If the purpose of disclosure is that the electorate should know what influences might be at work on election results and policy outcomes, they need to know before they vote.

In addition to the four developments just listed, there has been the obvious growth of political finance as a field, which extends more widely than the conduct of elections. Partisan use of public funds, donations to politicians or parties which may constitute graft or seek undue influence, questions of constitutional doctrine, human rights and ethics, and the possibility of unfair advantage being given to the party in office or to the major parties over their opponents, all attract attention and substantial research and publication. For the time being at least, the study of campaign finance may fit more congenially and usefully into that larger pigeon-hole.

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<sup>41</sup> Richard Hasen, 'Keeping the voting clean', *New York Times*, 11 November 2006; Kenneth R Mayer, 2006, 'Sunlight as the best disinfectant: Campaign finance in Australia', Democratic Audit Discussion Paper 31/06.

<sup>42</sup> Ernest Chaples, 1981, 'Public Campaign Finance: New South Wales Bites the Bullet,' *Australian Quarterly* 53(1), pp. 4–14; Ernest Chaples, 1983, 'Election Finance in NSW: The First Year of Public Funding,' *Australian Quarterly* 55(1), pp. 66–79.