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Campaign Finance and Political Polarization

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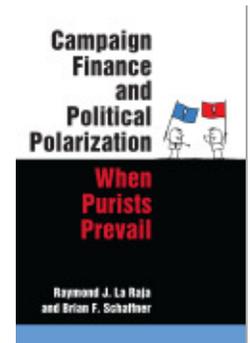
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The Hydraulics of Campaign Money

We wrote this book not only because of our academic interest in political parties and elections, but for a practical reason. We share with many U.S. citizens widespread concerns about the consequences of growing ideological polarization between the major political parties. Like many scholars we are intrigued by the underlying dynamics that have been pushing the political parties into polar ideological directions. Our main purpose in this book, however, has been a practical one. We seek to shed light on whether the design of campaign finance laws encourages or discourages ideological polarization.

In this chapter we summarize our findings from the previous chapters and highlight the effects of campaign finance laws on ideological polarization of the political parties. We will also provide some insights about the growing importance of “independent” spending, which we view as an outgrowth of overzealous efforts to clamp down on contributions to candidates and especially to political parties. At the federal level, independent spending has soared, but it has also been prevalent in the American states where political parties have been financially constrained.

We begin by recapitulating two of our main themes: the differences between pragmatists and purists, and their implications for American politics, and the effects on our polity of what we call the hydraulics of campaign finance reform.

Pragmatists and Purists Revisited

At the outset we made the claim that campaign finance laws that restricted the party organizations might have the effect of giving greater clout to ideological elements—the purists—in both party coalitions. In our framework,

the “party” is a broad mix of groups, activists, and professionals who help recruit and support candidates for office. In this sense we agree with the “group-centered” approach of the UCLA school, which conceives of the party as a constellation of partisans who coordinate their political activity across a network of interest groups. The UCLA school, however, tends to dismiss the organizational form as an epiphenomenon—a kind of side issue—with little or no bearing on such partisan matters as who gets elected and what the party stands for.¹ To adherents of this perspective, the party organization—strong or not—is not where the real action is, since coordinated decisions are made throughout a dense network of partisan groups, with or without the guidance of the formal party organization.

As we have made clear in our analysis, we disagree. We think the organization of the party matters significantly in shaping the direction of the party. In our view, the party organization is the natural venue of the pragmatists.² And laws that limit the flow of resources to the party organization correspondingly weaken the pragmatist faction. We argued at the outset that the several factions in the party have different priorities, and we maintain that these factions are in a constant state of natural tension. Our view differs from that of the UCLA school, which tends to characterize coordination within the network as essentially frictionless.

We have called the pragmatists the materialist Hobbesians of the party. They pursue power for status and very tangible benefits. Their ranks include the Karl Roves, the James Carvilles, and a host of lesser-known party officials, including many of the leaders in state offices, who thrive on the game of politics. To be sure, the pragmatists have ideological preferences, but these are sublimated to the aim of winning elections as a path to reaping the benefits of power. Because they keep this aim in sight, pragmatists are averse to embracing extreme policies that might make them lose votes or that might create the kind of ideological gridlock that would prevent the flow of benefits to them and their followers.

On the other side of the coin are the purists who operate primarily outside the party structure. These policy-demanding partisans engage in politics primarily for a cause rather than for an individualistic benefit. They make politics a principled quest for the ideal, rather than the merely realistic; for this reason, we think of them as the idealist faction of the party. Understandably, purists want government policies to reflect their values—gun rights, abortion rights, limited government, expansive government, or whatever distinctive worldview they espouse. The purists give the party a principled spine and make politics more than just horse-trading. Thanks to them, the parties have distinctive policy positions that give voters genuine choices.

Thanks to them, political elites are held accountable. And unlike the pragmatists, the purists are willing to stake out strong positions even if this puts the party at electoral risk. In their view, compromising on principles undermines the legitimacy of their cause and demoralizes followers. Politics for the many purist donors is as much an expressive form of participation on behalf of causes as it is an instrument for helping the party gain power.

In our framework, the pragmatists and purists constitute two broad elements of the party that contend for influence. The degree of power either faction holds depends primarily on the context of the period. For example, in a nation divided by major policy disagreements, such as slavery, the purists are bound to have more influence, since they provide moral clarity on the issues that grip the public. We would argue, however, that the conferral of power on one faction over the other is also dependent on rules that favor one or the other. And given the relative importance of money in politics, campaign finance rules matter for allocating power. The money whose flow such rules govern is not, of course, the only critical resource in politics, but those who have access to money exercise influence because politicians will naturally depend upon them.³

Another Look at the Hydraulics of Money in Politics

Our research agenda moved beyond the usual analysis of political contributions. Rather than look at one-to-one relationships between donors and candidates, we gave attention to the larger flows of money in the political system. Experience with campaign finance reform suggests that trying to stop the amount of money in politics is not very effective, and that political spending is rather inelastic. Like water, money finds a way to get around obstacles. The hydraulic theory of money in politics makes us attentive to how campaign finance laws channel money to (and through) different political actors. And we want to be clear about the very different incentives and behaviors of the actors in the political system. When money flows to one set of actors—the purists—it is likely to be used in different ways than when it flows primarily to the pragmatists.⁴

Based on our hydraulic theory, campaign finance rules affect which factions control relatively more money. When well-intentioned reformers pass laws that limit contributions, the amount of money in politics does not change significantly, but its flow migrates to either the purist or the pragmatist faction. In other words, the rules do not necessarily create effective “dams” that block money from entering politics, but instead expand or carve

new “canals” that channel its flow in other directions. And this rechanneling of money empowers different elements in the political system.

For this reason, we observe heated political battles over campaign finance reform. Not surprisingly, skirmishes over the rules occur not only between the parties, but often *within* the parties (La Raja 2008). For example, in lengthy deliberations over passage of the McCain-Feingold Act in 2002, which banned party soft money, Democrats were highly divided. The more liberal members embraced the legislation for ideological reasons, and the more moderate members were concerned that eliminating party soft money would hurt the party’s electoral prospects. Based on our theory about how campaign finance laws negatively affect party organizations, we think the McCain-Feingold Act benefited the purists outside the formal party structure at the expense of the pragmatists closely affiliated with the party organization.⁵

When the pragmatic party organization has a restricted role in elections, the opportunities expand for more ideological elements to support party candidates. As candidates rely increasingly on the purists for their campaigns, the collective party becomes more ideological and distinctive. The shift can be subtle and can play out over several election cycles before significant change can be observed. But it is a process that can gradually affect every decision of who runs for office, because ideological donors are key gatekeepers in the party. People may choose to run or not based on signals they get from party activists about their “fit” for office (Thomsen 2014).

This factional dynamic between pragmatists and purists inspires a central paradox in our conceptualization of political parties. While political scientists have traditionally posited a tight link between strong party organizations and strong programmatic parties, we do not think such a link is necessarily forged in a two-party system (APSA 1950). In fact, we speculate that the relationship might be inverse rather than direct. Parties that are weak organizationally might end up stronger programmatically, because the purists operating outside the formal party structure are able to influence the selection of candidates and the behavior of officeholders through direct contributions and in-kind support from affiliated interest groups. Purists might castigate incumbents publicly for being disloyal to the party, and might even campaign against them in the primary. In contrast, a financially strong party organization will use its resources to finance candidates who hew more closely to the views of the median voter. And pragmatists in the party organization will not want to risk a seat by pushing members to vote in unity with the party for a highly ideological candidate, when a vote for such a candidate, who might be distant from the district median, would put them at risk electorally.

We have shown in our analysis that, in light of the differences between purists and pragmatists, campaign finance laws that favor party organizations have a dampening effect on ideological polarization. Pro-party laws tend to shift resources to the pragmatist faction in the party organization whose main goal is to win elections rather than to make the party ideologically liberal or conservative.

To be sure, there are much deeper currents driving party polarization than campaign finance rules. Research shows that activists in both parties have become more ideologically cohesive over time (Baldassarri and Gelman 2008; Layman et al. 2010), and that activists have disproportionate voting power in nominating party candidates (Fiorina, Abrams, and Pope 2005). The wealthier partisan activists might also pull the coalition in their direction by helping to finance influential think tanks and foundations. Other activists attend party meetings and conventions, lobby government officials and elected members persistently, mobilize core constituencies at critical governing moments, recruit candidates (often from their own ranks), and generally promote in the media a national set of policy issues at all levels of government.

Notwithstanding the multipronged influence of activists within party coalitions, we think campaign money matters for polarization. Much of the impact takes the form of direct contributions to candidates or, increasingly, is exerted through independent spending by partisan groups. But power is also granted through the latent capacity of activists to punish politicians by withholding group endorsements and hampering the mobilization of financial resources. Such endorsements help politicians attract donations from voters who closely follow such cues when deciding where to give money.

Perhaps more critical than the elite individual donors who might give up to \$5,000 to a candidate are the mega-donors who now finance super PACs or 501(c)4 organizations with millions of dollars.⁶ Mega-donors, be they individual or groups, draw the attention of politicians and anoint their issues with credibility. Consider, for example, the fervor with which prospective Republican nominees for the 2016 presidential election attended a meeting convened by casino magnate Sheldon Adelson, who spent close to \$100 million financing 34 different candidates and groups in the 2012 election.⁷ In that cycle he gave \$20 million alone to “Winning Our Future,” a super PAC backing the failed candidacy of Newt Gingrich.⁸ The ability of a donor like Adelson, who has highly conservative positions on Israel and taxation, to personally finance a super PAC gives him disproportionate influence in national party politics.⁹

Summary of Key Findings

Our claims about the campaign finance system are based on arguments developed, and information presented, primarily in the analytical chapters of this book (chapters 2, 3, and 4). In those chapters, we carefully examined who gives money, who receives money, and how these dynamics affect ideological polarization in U.S. state legislatures. Through that analysis, we illustrated how financial constraints on party organizations actually shift power from pragmatists to purists because laws that hamper parties make candidates more reliant on ideologically driven donors. We focused our analysis on state legislative elections because an effective comparative analysis would not have been possible if we had focused only on federal elections.

In the following sections, we summarize our main findings.

1. Candidates rely overwhelmingly on nonparty sources of funding.

Candidates receive on average 25 percent of their funding from individual donors and 32 percent from nonparty organizations. In contrast, they receive just 9 percent from political parties. The party financing of candidates varies from virtually 0 percent in Arizona to a high of 40 percent in Indiana. These findings illustrate the candidate-centered nature of American elections and contrast noticeably with the party-centered financing systems in many other democracies. The conclusion is inescapable that parties play a relatively limited role in funding legislative elections in the United States.

This situation is relatively recent. Historically, political parties were less constrained in making contributions relative to other organizations. But this changed considerably in the past two or three decades, precisely during a period of increasing polarization. In 1990, only one in five states limited the amount that party organizations could contribute to candidates. By 2010, that proportion increased to half the American states. The tightening of regulations on political parties has occurred at the same time that partisan organizing has become more important because competition for government control has increased and party programs have grown far more distinctive. With constraints on party finances, however, partisans have sought independent campaign tactics to help favored candidates win. Those who have exploited independent spending the most are the ideological factions and entrepreneurs with the means and motive to step into the breach left by the weakened party organization. We maintain that this dynamic contributes to the palpable ideological distancing of the parties.

2. Individual donors are highly ideological.

Americans who contribute money in state legislative elections are much more ideological than the average American voter. These donors can be separated decisively into two ideological camps: one squarely on the left and the other just as clearly on the right. In contrast, the vast majority of American voters have policy preferences that are mostly in the middle, just a bit left of center.¹⁰ While others have demonstrated similar findings at the national level, our study reveals identical patterns in state-level elections. We contend that the heavy dependence of candidates on highly ideological donors—who provide two-thirds of the donations received by state legislative candidates—is related to the kind of candidates who emerge in elections and enter office.¹¹ Donors serve as party gatekeepers who help shape the field of party candidates through their decisions to give or withhold contributions.

3. Small donors are as ideological as large donors.

Our analysis of individual donors also shows that the much-heralded small donors (those giving less than \$200) are just as ideologically divided as the large donors. This finding raises a paradoxical situation. Recent efforts to encourage small donors as a way of diminishing the potentially corrupting influence of large donors could end up reinforcing the ideological divide between the parties' donor populations. We see little evidence that a strategy of encouraging candidates to raise more money from small donors will broaden the pool of donors to include more moderates. In fact, other research indicates that contributions from small donors, in comparison with those from Americans in the top .01 percent of wealth, go disproportionately to highly ideological candidates (Bonica et al. 2013). And in support of our arguments about how business interests tend to be pragmatic, this same study shows that executives from *Forbes* 400/*Fortune* 500 companies give disproportionately to candidates who are *closer* to the center than the party ideological mean for all candidates, while small donors give disproportionately to candidates at the ideological extremes.

We also observed that the donor pools in states with low contribution limits do not differ in demographic makeup from donors in states with no contribution limits. One argument for low contributions is that they will compel politicians to seek donations from a broader swath of the electorate. Yet, even in states with low contribution limits, donors remain overwhelmingly wealthy, white, male, and married. This finding suggests that

the imposition of contribution limits is not an effective strategy to broaden either the ideological or demographic profile of donors.

4. Individual donors prefer to contribute to ideological candidates.

Donors typically prefer to give money to candidates rather than to parties or groups because the candidates share their ideological views. While some donors are strategic, focusing their giving on candidates in close races, we mostly observe behavior that suggests that donors are mostly exercising a strongly expressive form of participation. We think this reflects the political passions of donors and their sense of ideological kinship with candidates. A highly liberal and popular officeholder, such as Democratic U.S. senator Elizabeth Warren of Massachusetts, raises significant amounts of money from very liberal donors because of the causes she champions, even though she is unlikely to face a serious electoral threat.

Tellingly, our analysis shows that as a candidate moves from the center to the ideological extremes (controlling for political competition and other factors), she relies more heavily on individual contributors as opposed to political parties. In fact, ideological orientation makes little difference in how much money parties give to candidates. The logical implication is that candidates who want to attract individual donors (who make up the largest source of financing in almost all states) must leave the middle of the ideological spectrum or already occupy a policy position compatible with those donors.¹²

5. Party asymmetry is noticeable.

We see significant partisan differences in the behavior of individual donors. Conservative donors appear reluctant to give funds to the party because they view the party as too moderate. In contrast, candidates are viewed as closer to their position. These perceptions lead to unique, ideology-based donor strategies. The more a donor self-describes as a conservative, the more he or she focuses heavily on giving directly to conservative candidates and like-minded issue groups. In contrast, liberal donors appear just as willing to give money to candidates as to political parties. That is, liberals do not tend to see ideological differences between candidates and the political party, viewing both as relatively moderate. For this reason, we observe the same proportion of very liberal donors saying they give to candidates and parties.

The differences in behavior on the left and right may account, in part, for the fact that the Republican party appears to have moved further to the right in the past decade than the Democrats have moved to the left.

As we demonstrated in chapter 3, individual contributors tend to give to highly conservative candidates. And these same highly conservative candidates receive a larger share of their contributions directly from issue groups in comparison to candidates on the left. While issue groups provide only a small portion of a candidate's total funds, their contributions can indicate broader levels of support. Not only do such groups tend to give early in campaigns when contributions matter most, but they also mobilize members and like-minded individuals to give directly to candidates. The stronger presence of issue groups in financing the campaigns of highly conservative candidates might be one reason for the strength of an extreme conservative faction in the Republican Party.

6. Party organizations support moderate candidates and challengers more than other institutional donors do.

When parties and groups are unconstrained by electoral laws, they follow very different strategies with regard to ideology and incumbency status. This has everything to do with the motives of different sets of donors. Political parties, which focus primarily on winning, generally favor moderates because moderates tend to be situated in competitive districts that the party wants to win. The pragmatists ultimately choose to support candidates close to the median voter. This strategy contrasts directly with that of the partisan issue groups. They champion narrow policies, and this causes them to give a greater proportion of their funds to officeholders at the ideological extremes. Labor unions follow a similar pattern by giving most of their contributions to the liberal extremes of the Democratic Party. In this way, unions behave strategically like ideological activists, seeking major policy change through electoral replacement rather than legislative compromise by working with legislators in the middle.

Business groups, in contrast, tend to favor moderate to conservative officeholders (but not extreme conservatives). We believe this is so because businesses are far more interested in bargaining with legislators over material benefits than trying to transform major policies. The conservative tilt of business groups reflects an interest in having governments that do not regulate their industries and professions.

The differences in institutional support of candidates can affect the ideological makeup of state legislatures. All things being equal, a greater role for political parties should help moderates raise money. Similarly, a greater role for business PACs might do the same, but with a tilt toward conservative candidates (and incumbents).

Therein lies a central paradox of regulating money in politics. Efforts to keep business-related money out of politics may help avoid problems of corruption or rent-seeking by interest group lobbyists, but could stimulate greater ideological polarization as candidates come to rely more on ideological donors. Barber's research at the federal level, for example, notes that candidates have relied increasingly over the past three decades on individual rather than PAC contributions (Barber 2013). He speculates that this is one reason for the heightened ideological polarization of members of Congress. Given these dynamics, we reluctantly acknowledge a potential zero-sum dilemma with regard to the goals of campaign finance reform: laws can be designed to limit either corruption or polarization, but not necessarily both. (We will propose new strategies that may address this dilemma in chapter 6.)

While our study focused on ideology, we also found different levels of support across donor groups based on incumbency status. Among institutional donors, parties give the largest share of funds to challengers (38 percent), compared to business groups (7 percent) and labor unions (11 percent). Issue groups typically want to increase the number of members who think like them, so they give more to challengers than other groups (31 percent). The implication of these findings is that political parties, which are most concerned with winning elections, are likely to spur political competition through their strategy of financing challengers. By helping to finance challengers, political parties might indirectly encourage movement toward the median voter as races get more competitive. Issue groups will also help challengers, but these candidates are more likely to be very ideological compared to the ones that parties support. Challengers are likely to do worse under campaign finance systems that rely heavily on PACs (most of which are business-related) and individual donors, because these two sets of donors heavily favor incumbents.

7. Moderate candidates benefit disproportionately from party financing.

Moderate candidates fare best with political parties. There is a direct relationship between being a moderate candidate and receiving a greater proportion of funds from the party. In contrast, the most ideological candidates receive a greater proportion of funds from individuals and issue groups, while moderates fare worst with these donors. Again, our argument is not that parties prefer moderation, *per se*, but that the pragmatists who operate the political parties focus money on close races where there are mostly likely to be moderate candidates. We were able to show that

moderate-to-conservative candidates also benefited disproportionately from business-group contributions. (The benefit to conservative candidates is not surprising, given the business preference for candidates who favor limited regulation and taxes.)

These findings clearly match our expectations based on the underlying motivations of different donors. The most ideological candidates get a larger share of money from individuals and issue groups with strong policy preferences. Ideological candidates are the darlings of the purists. In contrast, moderates benefit from the party organization, with its pragmatic orientation toward winning elections regardless of ideology. The implication for policy is that moderate candidates would benefit in elections if money came through the pragmatist faction, which is located primarily within the party organization.

8. Laws affect the flow of money going to moderates versus ideologues.

Our study shows that campaign laws matter but not the way people typically think they do. The use of contribution limits—a very popular reform tool—does not affect the total share of ideologues who give money, or even change the demographics of donors very much, including factors such as race, gender, or wealth. Instead, these laws follow the hydraulic principle of money in politics, affecting what kind of candidates receive money and from which sources. We were able to demonstrate how the design of campaign finance laws promotes or deters a larger financial role for political parties. And, specifically, we were able to show how increasing the role of the party had positive consequences for the political system.

First, our comparative analysis showed that *laws favoring parties stimulated additional contributions to the party organization*. When there are no limits on the amounts that parties can receive (and there are limits on candidates), the number and sum of donations to the parties increase by an average of 57 percent. Testing our theory that parties can serve as “filters” for ideological money, we found that laws that limited money to candidates but not parties had the effect of enticing more ideological donors to give to the parties, rather than giving directly to candidates. We believe that enabling the party to mediate these funds should help to diminish ideological polarization (see finding No. 9 below).

Second, we found that *laws favoring parties increased the financial role of political parties relative to other donors in the electoral system*. In states with no limits on party organizations, the party provides a greater share of resources to candidates. This shift toward the parties makes candidates less reliant on

ideological sources of funds (and less reliant on business groups too). We also note that this shift makes candidates less reliant on the transfer of funds from other candidates in the party. When parties are comparatively strong fundraisers, there is no need for the entire membership of the party caucus to be pressed intensively into the service of raising money for candidates who need it.

Not only do we think that having to effect such money transfers is a highly inefficient way of partisan organizing, but we are concerned that the reliance on colleagues for support increases the importance of money in the legislative routines of elected officials. Members who are not even in close races find themselves continually asking for contributions that they can pass on to others in the caucus. The emphasis on raising money for others in the party caucus makes this practice a chief means of building bargaining power with colleagues and advancing into leadership (Heberlig, Hetherington, and Larson 2006; Heberlig and Larson 2012).

We do not think that the additional time that legislators spend on raising money is good for representative government: fundraising takes away from time that could be spent on building policy expertise, developing working relationships with other members, and interacting with district constituents (Francia and Herrnson 2003; Tokaji and Strause 2014). We also speculate that having to raise money constantly leads candidates to spend a disproportionate amount of time with a tiny slice of wealthy Americans, which can skew the perspective of legislators. At the federal level, according to freshman U.S. senator Chris Murphy (D-CT), fundraising has become “soul-crushing” and threatens to distort his view of the public’s concerns. He says that “you’re hearing a lot about problems that bankers have and not a lot of problems that people who work at the mill in Thomaston, Conn., have.”¹³ At the state level, the experience is surely less intense, but it is no less true that politicians in need of campaign money spend more time with those who can make contributions than with other, more typical constituents.

Third, *when the laws allow parties to play a stronger financial role, moderate candidates get a larger share of money from parties.* We found that parties were able to concentrate their funds among moderates when they did not face constraints on political contributions. In contrast, in states with party limits, the state parties appear compelled to spread their funds to more ideologically extreme candidates. This was particularly true on the Republican side. In party-limited states, candidates relied more heavily on individuals as their source of funding, and individual donors tend to reward ideological extremism: for every one point farther from the center an incumbent is, 5 percent more of that candidate’s funding comes from individual donors.

Fourth, *challengers fare better financially when states have pro-party laws*. The removal of limits on political parties increases the share of funds that challengers receive from parties by 50 percent. (Keep in mind, however, that they still only get, on average, 16 percent of total money from parties in states without restrictions on parties.) There are several potential implications of these dynamics. In the candidate-centered system, challengers tend to be poorly funded relative to incumbents. A shift toward a party-centered system might improve the financial situation of challengers and their prospects in elections. With respect to our main focus on ideology, we also suggest that raising the salience of party funds should make challengers less beholden to ideological activists, who typically provide them with the most support.

Overall, our results indicate that laws can create a stronger role for parties in financing elections. By allowing parties less restricted access to donors, the ideological sources of money (from individuals and issue groups) can be filtered through the party to support moderate candidates in closely contested districts. In this way, the parties have a potentially “cleansing” effect on the ideological money that is given directly to candidates.

9. Legislatures are less polarized in states with pro-party laws.

The two major parties are ideologically distinctive in each of the 50 states. We see a clear bimodal distribution for ideology among state legislators based on party, in comparison with the rest of the electorate, which displays a normal, unskewed distribution. Our findings suggest that carving a larger financial role for the party organization could attenuate the polarization in state legislatures. We demonstrate that in states with party-centered campaign finance laws, the distance between the party ideological medians in the legislature is considerably shorter than in other states. Over time, our model predicts that removing financial restrictions on parties should lead to less polarized parties, while the reverse is true if parties are restricted. If the distance between parties diminishes and ideological overlap between the parties increases, additional opportunities for bipartisan compromise on policy are likely to arise.

When candidates get money from the party, the dynamics of polarization shift. Officeholders who get money from the party should become less beholden to the ideological partisans who typically fund campaigns. Pragmatist party leaders will tend to be more lenient with members than issue groups on votes that might offend district constituencies. Money controlled by party leaders will enable caucus members to vote in ways that decrease

their electoral risk. The availability of party funds may also make it easier for the parties to attract moderate candidates who would otherwise have to pass through ideological donor gatekeepers. We do not argue that party financing will cause partisan legislators to converge inexorably toward the median voter. The ideological positions will remain distinctive because of other powerful forces pushing the parties apart. Indeed, interviews with partisans and scholars in many states suggest that the party leaders in legislatures are more ideological than in the past.¹⁴ But these leaders are responsible to multiple constituencies and must work to preserve their majority status. These incentives predispose them toward pragmatism even if they have strong policy preferences.

The Relationship Between Laws That Limit Parties and Independent Spending

We have focused on political contributions in our analysis. But in the past decade there has been an explosion of campaign spending, particularly at the federal level, which does not involve direct contributions. This financial activity is called by many names, depending on statutes in the American states, but the characteristic that ties them together is that the spending is done *independently* of the candidate's campaign. Those who engage in such campaigns cannot legally coordinate with the candidate, and so these activities are commonly referred to as "independent expenditures" or "IEs."

Independent expenditures are not new. At the federal level IEs have been used from time to time by interest groups, at least since the passage of the FECA amendments in 1974. And if one takes a broader definition of independent spending, it plausibly includes all the efforts in American political history when interest groups advertised in support of favored candidates. In the early part of the 20th century, for example, the United States Brewers' Association frequently engaged directly in campaigns against politicians who favored Prohibition or local taxation of alcoholic beverages (Odegard 1928).

What has changed about independent spending is its pervasiveness. We could readily predict the surge in IE spending based on hydraulic theory and our group-centered conceptualization of political parties. Partisans have strong incentives to find alternative ways to support candidates when financial constraints are imposed on the party organizations, especially during a period when control of government hangs in the balance, as it does in Congress and many state legislatures.

The incentive to deploy independent expenditures is strengthened by contemporary First Amendment jurisprudence, which thwarts efforts by the government to regulate such spending. A foundational court decision, *Buckley v. Valeo* (1976), created a key distinction between contributions and expenditures. The Supreme Court argued that government could restrict the source and size of contributions to candidates and parties because of a sufficiently compelling interest in preventing corruption. But such logic did not apply to expenditures made independently of candidates and parties. Without the explicit exchange between donor and candidate, the threat of a quid pro quo (or its appearance) was greatly diminished.

Subsequent court decisions reinforced *Buckley*, including the infamous *Citizens United v. FEC* (2010), which allows any organization to spend unlimited money in politics.¹⁵ At the federal level, corporations and labor unions were previously barred from such spending (but not individuals).¹⁶ In the aftermath of *Citizens United*, similar laws in states barring any kind of independent organizational spending are now unconstitutional. Nonparty groups have been buoyed as well by an appellate court decision, *SpeechNow.org v. FEC* (2010), which invoked the logic of *Buckley* to disallow contribution limits on organizations making IEs. The reasoning was this: if candidates cannot be corrupted by independent expenditures, then any contributions to organizations making such expenditures should not be corrupting. At this point, *any* nonparty groups deploying IEs can raise money without restrictions (based on *SpeechNow.org v. FEC*) and spend unlimited sums in elections (based on *Citizens United v. FEC*).¹⁷

To demonstrate our argument that tight restrictions on parties cause dramatic increases in independent spending, we once again compare states with and without limits on party organizations. We observe IE data in state legislative elections from 2006 to 2010 gathered by the National Institute on Money in State Politics. NIMSP collected reports filed by individuals and committees with state disclosure agencies in the 20 states that provide relatively robust disclosure.¹⁸ While the data do not cover all the states, we do capture the variety of campaign finance laws in American states, particularly as they apply to political parties. For example, the data include four states that place no limits on parties (IA, MO, NC, and TX), two states that limit contributions to parties (CA and OH), seven states that limit contributions from parties to candidates (AZ, ID, ME, MI, MN, TN, and WA) and seven states that limit contributions to and from parties (AK, CO, CT, MA, OH, OK, and WI). Moreover, the data show conservative totals because some states do not require disclosure of electioneering communications, which target voters before an election but do not explicitly tell them whom to

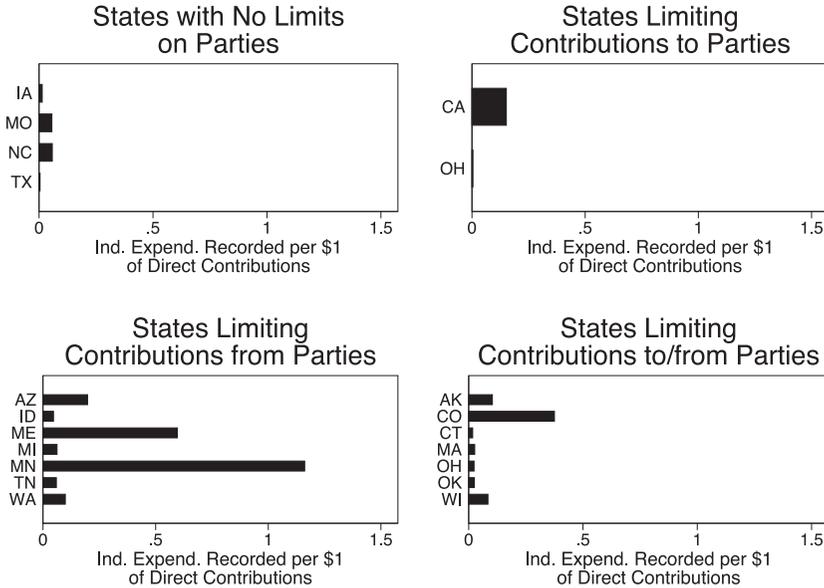


Figure 5.1. Independent Expenditures Relative to Total Contributions in States Depending on Party Contribution Laws (2010–2012). (Note: Based on data from NIMSP)

vote for. Despite some of these limitations, the data provide the best portrait available of IE activity in the American states and allow us to observe whether laws that constrain parties tend to increase the amount of IEs.

Figure 5.1 reports IE spending per \$1 of total contributions to candidates in a state. We adjust the figure relative to conventional contributions because we do not want amounts in a large state like California to swamp the analysis. The figure arrays states from top left to bottom right based on the stringency of laws restricting parties. At the top left are states that allow unlimited contributions to and from political parties; the top right shows states with limits on contributions to parties (but no limits on party contributions to candidates); the bottom left shows states limiting contributions from parties (but not contributions to parties); and the bottom right shows states that limit both contributions to and from the parties.

The pattern of IEs illustrates exactly what we expect, namely that IEs are greater when parties are limited, precisely because partisans choose to finance campaigns outside the formal party structure. In states with no limits on parties at all, we observe very few independent expenditures relative to traditional contributions. We note that three of these states—Iowa, Missouri,

and North Carolina—are highly contested for control of the legislature, so the pressure for partisan organizing is critical. Yet, partisan organizing tends not to embrace the kind of outside spending that is now pervasive in congressional elections. Moving to the right we see a fairly similar situation in two states that limit contributions to the parties. Both these states have relatively high contributions to the parties (California and Ohio were both roughly \$65,000 in 2010), and yet in highly expensive California we observe minimal outside spending and in highly competitive Ohio there is virtually none. Turning to the bottom left graph, with limits on contributions from parties, we observe particularly high spending in Arizona, Maine, and Minnesota. Not coincidentally, these are all states with public financing rules for candidates that limit the amount of money they can spend. The incentives for outside spending are truly significant in such states. Finally, in the bottom right chart we observe states where parties face limits on contributions to and from them. We see particularly high independent spending in highly competitive states such as Colorado, and to a lesser extent in Wisconsin.

Figure 5.1 reflects a snapshot of spending in 20 states, but it suggests at least two additional conditions that increase outside spending beyond the constraints on parties. First, limiting how much candidates spend will generate outside spending. These rules are in place in public financing states that require candidates to cap their own campaign spending in return for getting subsidies. Second, competitive states where control over the legislature is at stake tend to see somewhat more independent spending. In the next section, we turn to *who* is making these independent expenditures.

Why Independent Spending Contributes to Partisan Polarization

Our group-centered view of political parties leads us to believe that IEs contribute to political polarization. In a campaign finance system with limits on contributions to candidates, we expect partisan factions of both purists and pragmatists to exploit IEs as a strategy to support favored candidates. Nonetheless, we anticipate that IEs will tend to benefit the purist factions for at least four reasons.

1. Purists exploit independent expenditures more than pragmatists.

IE spending is risky because groups must be willing to take strongly partisan positions in campaigns that could create political backlash from the electorate. The groups most likely to spend money independently are

ideological factions who are willing to take these gambles to promote a cause or candidate. Issue/ideological groups are less concerned than pragmatic benefit seekers, such as business interests, about public backlash resulting from IEs, because voters are not necessarily familiar with the groups sponsoring the ad and the public has limited means to sanction the group for ads it does not like. Some purist partisans may view IEs as an opportunity to set the campaign agenda around their favored issue positions and rally behind candidates who champion them.

To be sure, the pragmatist faction in the party will also exploit IEs by splitting apart an “independent expenditure party committee” that operates in the final months of a campaign without communicating with officials in the traditional party committee. Alternatively, to take advantage of unlimited fundraising allowed by the *SpeechNow.org* decision, party professionals might establish nonparty organizations (some call them “shadow parties”) that are not affiliated in any legal sense with the traditional party committee. We have observed this dynamic at the federal level with party establishment figures such as Karl Rove managing two groups since the 2010 elections, American Crossroads and Crossroads GPS, which run campaign ads in targeted races.¹⁹

In the emerging realm of independent spending, the pragmatist faction competes directly for IE financing with purists. As we have pointed out, wealthy ideological donors tend to prefer giving their money to groups that highlight the issues they care about. So when IEs become institutionalized in the electoral system as a “normal” way of campaigning, many wealthy donors will be inclined to use nonparty groups rather than the party organization (or the shadow party) to advance their policy goals.

The potency of ideological super PACs is compounded by the shrinkage of nonideological money in the electoral system. Most of that nonideological financing comes from business interests, who stick primarily to the conventional campaign finance system by making contributions to candidates and parties through business PACs. In states with low limits on PAC contributions, however, the ideological money—both from individuals and super PACs—takes up a larger share of total campaign money in the electoral system, with consequences for polarization (Barber 2013). Increasingly, IEs are another way for ideologically sourced funds from individuals and issue groups to help candidates. One of the great ironies of *Citizens United v. FEC* is that corporations have not exploited the ruling to the extent that advocacy groups and labor unions have (Fenton 2014). And yet the media galvanized public attention around the idea that *Citizens United* would make corporations an unstoppable force in Washington.²⁰

The highly pragmatic orientation of most corporations makes them refrain from being so publicly partisan. The experience of Target Corporation, a leading retailer, provides a telling example of how highly partisan political activity is not good for business. In the immediate wake of the *Citizens United* decision, Target made a \$100,000 contribution to MN Forward, a Minnesota business coalition airing TV ads in support of a Republican gubernatorial candidate who championed lower corporate taxes. However, the fact that the candidate also opposed same-sex marriage drew highly publicized calls for a boycott of Target from civil rights organizations and progressive groups. This publicity hurt Target's image with many customers and compelled the company to make a public apology to employees (Mullins and Zimmerman 2010).

For most business groups, there is greater safety in contributing to candidates and parties directly rather than to IE groups. For this reason, business interests gave soft money to national parties in the years before passage of the BCRA, but we do not observe them giving similar amounts to IE groups. A primary goal of reformers was to put an end to party soft money, and they have largely succeeded. But the consequence has been greater influence for the polarizing tendencies of ideological groups that have not hesitated to exploit IEs. When the campaign system imposes low contribution limits on parties, it diminishes the supply of nonideological money that typically comes from benefit-seekers such as business firms and trade associations. Hence, the trade-off between corruption and ideological polarization: low contribution limits on PACs might restrict the kind of rent-seeking from business interests that Americans deplore as corrupting. But laws to reduce PACs' influence appear to elevate the prominence of ideological groups that are least likely to embrace compromise in politics.

To demonstrate that constraints on party organizations lead to greater dominance of ideological interests through IE spending, we look closely at the groups that engaged in this strategy between 2006 and 2012, using the same data cited above, collected by the National Institute on Money in State Politics. Figure 5.2 includes IE spending by 5 groups in the 3 states *without* party limits (on the right side), and the same groups in the 17 states *with* party limits (on the left side). The groups we identify include: Democratic Party (black), Republican Party (dark gray), labor unions (white), business (light gray), and issue groups (with the broken line). First, note on the left side of the graph that both Democratic and Republican party organizations try to get around constraints by using IEs, and they do so fairly equally.²¹ Democrats spent just over 4 cents per dollar of total political contributions made by all donors to state legislative races; Republicans spent roughly 3.5 cents per dollar of contributions.

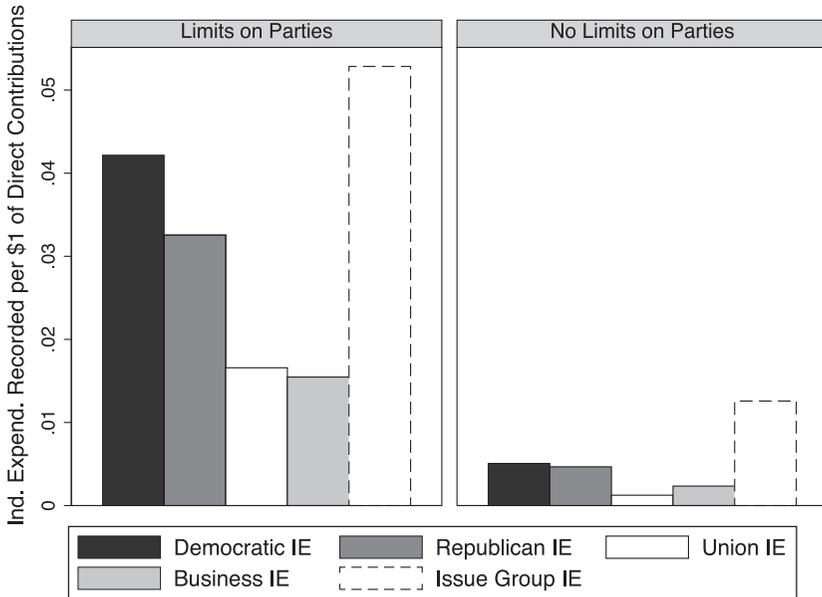


Figure 5.2. Independent Spending by Groups in States With and Without Party Limits (2006–2012). (Note: Based on data from NIMSP)

Of greater significance is the amount of IE spending by issue groups. Between the years 2006 and 2012, issue/ideological groups spent more than 6 cents per dollar of total political contributions made by all donors. Further analysis reveals that 61 percent of these contributions benefited Democratic candidates, while 39 percent benefited Republicans. Overall, the amount spent by issue groups reflects 36 percent of IEs in these states. Some of the largest spenders among issue groups were the Greater Wisconsin Committee, the Michigan Coalition for Progress, the Civil Justice Association of California, the California Alliance, and Twenty First Century Colorado.

Labor unions are also very active in the states with limits on parties, and entirely on behalf of Democrats. They spent 2 cents per dollar of contributions in those states. Recall our analysis in chapter 3, which showed that labor unions tend to support the most liberal candidates in the Democratic Party, a strategy that aligns them closely with very liberal issue groups in the Democratic Party coalition. We also observe about the same amount of independent spending sponsored by business interests, which appeared to come mainly from the various state chapters of Chambers of Commerce, realtor groups, and trade or professional associations.

The findings in figure 5.2 indicate that the IE strategy is dominated by issue/ideological interests. If we also include labor unions, which tend to support the most liberal candidates, then the bias toward the polar edges of the party is even more pronounced. Note in the graph on the right side of figure 5.2 that IEs constitute a very small amount of election spending when political parties are not limited in financing their candidates. IE spending is low because the parties can support their candidates directly and transparently through the conventional campaign finance system. And yet, even in states with pro-party laws some issue groups will use IEs. This is not surprising because such groups may want to shape the campaign issue agenda and put weight behind favored candidates. But the IE amounts are small compared to those in states where party organizations are constrained. When parties are constrained, opportunities arise for issue groups to fill a vacuum by helping candidates who would otherwise rely on party support.

2. The prevalence of IE groups allows ideological donors to avoid the moderating mediation of the party organization.

The availability of IE groups provides additional opportunities for ideological donors to finance ideologically like-minded groups while shunning the party organization that is willing to support moderate candidates. We are not opposed to donors exercising their First Amendment rights by supporting groups or candidates of their choice, but we argue that the political system should incentivize donors to support party organizations, which help build broad-based partisan coalitions. Recall our finding in chapter 2 that pro-party laws can encourage ideological donors to send money to the parties, even when that is not necessarily their first choice. And in chapter 3, we showed how party organizations will then invest these ideologically sourced contributions to finance moderate candidates in close races. This dynamic allows the party organization to serve as an institutional filter to reduce the influence of ideological money in the political system.

The IE groups that tout ideological causes make them attractive venues for donors who might see the party as too wishy-washy. The wealthy donor can have more say in how his or her dollars are spent with an IE group that is highly focused on a few issues and candidates. This situation contrasts sharply with that of a party organization, which often has obligations to multiple candidates and constituencies in towns and counties throughout the state. The nature of a broad party coalition necessitates compromises among factions. Such compromises may upset a major donor who is pushing a cause. The availability of IE groups gives purist contributors an

attractive alternative to working with the party organization. In a recent election, a disgruntled major donor to the Minnesota Republican Party chose to stop giving to the party organization because its leadership did not take an uncompromising position on right-to-work laws and other conservative positions (Shaw 2012). Instead he gave to the highly conservative Freedom Club State PAC that supports like-minded state legislators and members of Congress, including Michelle Bachmann (Richert 2012). Meanwhile, the Minnesota Republican Party faced a \$2 million debt at the close of the 2012 election. Raising money has become increasingly challenging for the parties thanks to constraints on fundraising, their broad focus, and requirements for highly transparent reporting of donations. According to Ken Martin, chair of the Minnesota DFL, “If you’re a donor and you can write a million-dollar check to an outside group with little or no disclosure and focus it on very specific activity and have no [regulatory] urgency or burdens in terms of disclosure hanging over your head, why wouldn’t you go that way and give a contribution?”²²

The increasing importance of these outside groups puts pressure on members to toe the line on specific policies that are out of the mainstream among the electorate. At the federal level, members of Congress talk of “trimming their sails” in anticipation of outside spending for which they might be criticized in the next election (Tokaji and Strause 2014, 79). A former chair of the National Republican Congressional Committee, Tom Davis (R-VA), places part of the blame on the weakened state of political parties. He says, “[C]ampaign finance laws, as well-intentioned as they may have been, have pushed money away from the political parties—centering forces—and out to ideological interest groups. Politicians face more pressure to please these extreme interests” (Davis 2012).

3. Pragmatists lose the strategic benefit of direct connection to candidates and the broader party structure.

While pragmatists in the party organization can also exploit IEs, they forego many advantages when they are forced to avoid communicating with their candidates as they normally do as party officials. To be sure, we know that professional campaigners have become adept at coordinating messages under rules requiring “independence” (Tokaji and Strause 2014). But it is undoubtedly more challenging for independent groups to craft nuanced strategy and shift quickly as events on the ground change in the final days of a campaign. Not only is it more difficult to coordinate media campaigns with candidates, but grassroots efforts to mobilize voters suffer as well. According

to an election lawyer for Democratic state parties, Neil Reiff, the IE vendors tend to focus on highly polarizing ads rather than broad voter mobilization: “Most [consultants] just want to run ads and collect their checks. They don’t care about the labor-intensive, low-cash returns on grassroots work.”²³

From a purely budgetary standpoint, we can expect problems managing campaigns efficiently when funds are not fungible across partisan groups. There are times in a campaign when it might make more sense to spend money on voter contact rather than TV ads. But decisions about the best use of the marginal dollar cannot be made when campaign organizations are legally cordoned off from one another and each IE group has already allocated its money to be spent on a particular activity. Substitution that might take place within the formal party organization in the heat of the campaign is likely to be minimal. In this way, the pragmatist faction of the party loses a valuable strategic asset when the party organization cannot be the venue for such decisions.

The emphasis on IEs also entails an emphasis on TV and individual candidates. This is not typically the way party organizations operate. Instead, parties consider the broader candidate slate and balance TV with grassroots efforts. One state party executive says, “The super PACs have, frankly, an easier sell. . . . Invest in us, and we’re going to go on television and say these horrible things about Republicans.” He added, “We do voter registrations, we do vote-by-mail campaigns. We do a lot of things that are a little bit less sexy but no less important.”²⁴ Others have noted that the ads made by outside groups do not always resonate with local voters.²⁵ In effect, the campaign finance laws that limit party organizations appear to have encouraged a fragmented partisan campaign that short-circuits the combination of local coherence and broad partisan perspective that traditional party organizations might have conferred on campaigns.

4. National groups displace the role of state parties.

A related problem is that the state party organization loses power to national issue groups that have the wherewithal to raise money from national constituencies. Recent research shows that partisan groups organized at the national level are using IEs to influence the outcome of state-level races (Hamm et al. 2014). These groups do not necessarily work with local parties and groups the way state parties do. Groups like the Republican State Leadership Committee (RSLC) are not integrated into the broader party structure that includes national, state, and local committees, all of which have broad-based leadership of officeholders and activists. A good example of the power

of national groups over local and state parties is Wisconsin. In a battle with the Republican governor over his effort to take away the collective bargaining rights of public unions, local Democratic party officials appeared willing to negotiate a compromise but nationally based outside groups running ads were not.²⁶ Notably, the state parties in Wisconsin did not have much money to back up their arguments while outside groups did. In federal elections, the parties formerly played a major role in coordinating voter mobilization for races across the ticket, but many experienced campaign professionals no longer view the state parties as effective or as a place to build a career. The best talent flows to super PACs (Tokaji and Strause 2014).

The loss of power for state parties will likely accelerate because many state parties face contribution limits, while super PACs do not under the Court decision in *SpeechNow.org*. At the same time, state parties have been severely restricted from campaigning for the entire party ticket because of the federalization of campaign finance law.²⁷ Under BCRA, any grassroots activity that includes support for federal candidates must abide by restrictions on the federal definition of soft money, even if state laws are less restrictive. This obstacle increases the incentives to use nationally sponsored super PACs to make up for the weakness of state parties; super PACs have begun to do some of the things that state and local parties used to do, such as building grassroots infrastructure, recruiting volunteers, and supporting full-time staff. In comparing the importance of different groups in federal elections, interviews of political consultants revealed, according to one scholar, that “the overriding theme was that the state and local parties are just not the important players that they used to be in federal elections. On some occasions, we got laughs or chuckles when we even mentioned state or local parties” (Daniel Tokaji, as quoted in Overby 2014).

Even if some state parties are adept at IEs (as they are in Minnesota, for example), the arrangement in which parties are legally cut off from their own candidates makes no logical sense. Allowing parties to raise and spend more money in coordination with candidates would make them more important to candidates and give them a more powerful voice in recruitment and in setting the direction of campaigns. Drawing on the group-centered model of parties articulated by the UCLA school, we believe the formal party reflects a key faction, with its own set of demands on the coalition.

To the degree pragmatists in the party organization dominate the resource game, they have a bigger say in how to craft messages and where to invest campaign funds. The money allows parties to use carrots and sticks with other elements of the party outside the organization. State parties can invest in local parties and activist groups in ways that encourage them to

avoid giving a free path to extremist candidates. In short, the ability to give and withhold resources is a significant source of power.

The institutionalization of IEs is moving quickly at the federal level and is already a common campaign strategy in states such as Arizona, California, and Minnesota. We expect the growth of IE groups in state legislative elections unless campaign finance laws carve out a greater role for parties. As we have shown in the preceding analysis, IE spending is most robust in states that limit the parties. These are the same states where polarization between the parties in the legislature appears greatest (as we demonstrated in chapter 4). Party organizations may attempt to get around these laws by using IEs, but this adaptation is a weak substitute for having laws that give the parties greater freedom to support candidates. Indeed, if the IE strategy were an effective substitute for party organizations, we should not observe the differences we see between limited and unlimited states with respect to ideological polarization. The fact that we see different outcomes in these states implies that having campaign money inside the traditional party organization matters. This dynamic suggests that the UCLA school and other proponents of party network theory are overly optimistic in assuming that parties easily adapt organizational forms to achieve similar outcomes.

Lack of Transparency

Aside from their impact on polarization, IEs present another problem: heavy use of IEs undermines financial transparency in politics. IEs are often funded by groups with names that the public does not recognize, with little reference to whether they are Republican or Democratic partisans. At the federal level, for example, we observe super PACs such as “Crossroads America” or “Freedom Works” or “Citizens for a Working America.” To make matters even more challenging, some of these groups do not even have to report information on their donors because they are classified as “social welfare” organizations under section 501(c)4 of federal tax laws.

Reformers have been focused on imposing disclosure requirements on groups that run campaign ads independently. This strategy hardly addresses the larger problem: voters simply do not know these groups, which makes it a daunting challenge to bring broader accountability to their actions. Unlike party organizations, the vast majority of these groups have short histories and the kind of bland labels that give no indication of who is behind them. We do not believe that an emphasis on disclosure of outside groups, while

laudable, will significantly advance the goals of political transparency and accountability.

Our theory suggests a different approach to improving transparency and accountability. Our hydraulic theory implies that funds now being spent by IEs would diminish greatly if the party organizations played a larger role in financing politics. The findings shown in figure 5.2 suggest that we are correct that removing the fetters from parties might eliminate much of this spending. With this in mind, we turn to our suggestions for campaign finance reform in the next chapter.