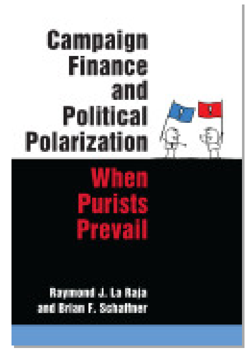
Campaign Finance and Political Polarization

La Raja, Raymond J., Schaffner, Brian F.



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CHAPTER 6

The Future of Reform: Build Canals, Not Dams

Our findings about the relationship between partisan donors and campaign finance laws have important implications for reform aimed at reducing ideological polarization between the parties. Given the moderating tendencies of pragmatists in the party organization—particularly the leadership in the legislative caucus—we feel strongly that more money should flow through parties. This goal can be achieved by allowing parties greater freedom to finance elections, without many of the regulatory constraints on contributions and expenditures that now pertain. For this reason we urge reformers to consider a "party-centered" campaign finance system that would boost the influence of the pragmatist wing of the party by making party organizations more salient in elections.

To accomplish this strategy, reformers would have to give up on long-held assumptions about the value of imposing relatively low contribution limits on parties as a way to thwart corruption. Low contribution limits, or even *any* contribution limits, on parties distort the campaign finance system in ways that tend to benefit partisan purists. In many ways, the distortion in the campaign finance system that tilts influence toward purists is no less problematic for democratic politics than the distortion attributed to wealthy rent-seeking interests. In either case, political representation is strongly biased toward the preferences of the wealthy interests. Indeed, low-income Americans may suffer as much from polarization in the party system as from quid pro quo corruption; but it is this latter transgression that is currently the target of campaign finance regulations. Partisan polarization tends to exacerbate problems of economic inequality because political stalemate makes government less responsive to the needs of poorer citizens (Hacker and Pierson 2010; McCarty, Poole, and Rosenthal 2006). If party organizations had more freedom to raise and spend money in election campaigns, we believe that legislatures would be less polarized and more likely to find the compromises necessary for governing in a separated system of powers and for forging deals that serve the broader electorate.

Recalibrating campaign finance laws will require a shift away from the anticorruption framework that puts an emphasis on limiting money in politics. Instead, we urge that reformers conceive of their task as "building canals, not dams." In other words, reformers should think broadly about the institutional flow of money into politics, rather than focusing on one-to-one transactions between donors and candidates.[1] For too long, political reforms that were intended to clamp down on political contributions have been predicated on the seemingly unassailable notion of "one person, one vote" (Feingold 1988). But policy is not made by counting votes; it is the product of contestation between well-resourced groups with intense policy preferences (Cain 2014). The current campaign finance system (and nominating system) gives advantages to small factions that influence the direction of the party coalition through their control over campaign resources and other political assets.

To put it plainly, erecting dams—constructing contribution limits to hold back money—not only does not work, it actually favors a relatively small group of purists. The purists are willing to go to great lengths to influence the outcome of elections, even when contribution limits constrain how much they can give to candidates. When candidates face low contribution limits in a regulatory context that prohibits parties from supporting candidates generously, purist factions mobilize donations from their members, manage voter mobilization campaigns, and may even run independent advertising to advance their favorite candidates. In this way, the anticorruption approach to reform tends to purge the campaign finance system of benefit-seekers (e.g., business interests) while elevating the issue-oriented, ideological financiers of American elections. We argue for an honest acknowledgment—and skillful balancing—of the trade-off between combating corruption on the one hand and mitigating ideological polarization on the other.

Let us be clear that we are not criticizing purist factions for trying to influence elections. Such activity is their constitutional right, and we believe members of such groups act as solid citizens by engaging in politics to promote what they see as the good society. And as we said previously, we recognize the value that purist factions add to the party system by helping to clarify the policy positions of the parties, which in turn helps voters make decisions. At the same time, we highly value the role of pragmatists in mediating diverse interests within and between the major parties. Their work helps make governing possible in a large republic with a constitutional system of separated powers. The pragmatic leadership of party insiders provides the glue that binds diverse interests, and this glue, by preventing fragmentation, helps to lessen policy gridlock (Pildes 2015).

What a Party-Centered Campaign Finance System Would Look Like

We propose four relatively simple steps to improve the campaign finance system. Our reform proposals are minimalist for two main reasons. First, we are concerned that prevailing approaches to regulating money in politics lead to complicated rules with layers of details about what political committees can and cannot do. We have not addressed these complexities in this book, but it seems clear that the profusion of regulations surrounding financial reform adds perversely to the cost of politics and gives advantages to those with the legal resources to overcome them. Our focus has been the impact of laws on ideological polarization but, given space, we could have written about the dampening effect of such complex laws on legitimate political activity (see, for example, Bauer 2013). We want more political activity, not less, and we would like much of it to be channeled through accountable organizations such as the political parties, which have a remarkable history of creating broad governing coalitions that respond to majority sentiments in the electorate. Our approach is very much rooted in a pluralist tradition that pays attention to challenges of collective action for less well-off citizens and values fair contestation among groups (Cain 2014).

Second, we think our minimalist approach, which focuses on strengthening party organizations, also advances other worthy goals of political reformers, but in less conventional ways than most proposals. Critics of the campaign finance system, for example, claim that incumbents control most of the campaign money, which makes them hard to beat. From our perspective, strengthening the party should address this problem, because the parties are in fact the most likely sources of support for challengers intent on competing against incumbents.

Another concern of reformers is the lack of transparency in campaign money, and our proposal helps here as well. At the federal level, there have been intense efforts recently by reform advocates to require nonprofit organizations that engage in any activity that resembles electioneering to reveal the names of their donors.[2] Some of these proposals would require the involvement of agencies such as the Internal Revenue Service and the Securities and Exchange Commission, which have limited experience in dealing with political regulation.[3] We think that encouraging the flow of money through parties would greatly improve disclosure and accountability, since parties regularly report all their finances in great detail to the Federal Election Commission (FEC). This would obviate the need to engage other federal agencies in elections in ways that are controversial and often delegitimizing to the proper work of those agencies (Mayer 2014).

Given our concerns about the overcomplexity of regulations and our findings about the positive impact of party organizations on the electoral system, we propose four basic rules to create a party-centered system of campaign finance:

1. Limits on contributions to the political parties should be relatively high or nonexistent. A chief goal of reforms should be to channel more money through accountable and moderating party organizations. Parties should be treated differently than PACs and candidates. Our study examined many states that had no limits on contributions, and we observed decreased polarization in these states. There might be good reasons to have some limits, so long as they are not so low as to cause the distorting effects we illustrated. Such limits would also prevent party leaders from "shaking down" interest groups for very high contributions. A reasonable limit would set some boundaries on such behavior. This limit should depend, of course, on the cost of elections in a particular state.

2. Modest limits should be imposed on contributions to candidates. In conjunction with raising limits on contributions to the parties, we think it is important to place reasonable limits on the amounts that candidates can raise from nonparty contributors. Doing this will prevent interest groups and ideological donors from simply focusing their largesse on favorite candidates. As we showed in chapter 2, placing limits on candidate contributions encourages donors—including ideological donors—to give to the party instead. The combination of high or no limits on parties, with modest restrictions on candidates, will help channel the flow of money through party organizations.

3. No restrictions should be imposed on party support of candidates. Political parties should be permitted to help their candidates as much as desired with direct contributions or in-kind support. This is a critical aspect of attenuating polarization, because parties tend to target moderate candidates in closely contested districts. Not only will this dynamic help finance more moderates, but it will encourage the financing of challengers to face incumbents. Currently most state parties—including the caucus in the legislature—play a very limited role in financing candidates. The leadership that controls the legislative party, especially in highly competitive states, has powerful incentives to finance challengers and moderates. We would not think it unreasonable if parties could provide at least half of candidate resources for a political campaign.

4. Public financing should support party organizations. Many proposals seek to subsidize elections as a way of reducing the influence of big money in the political system. We support public financing of elections because we believe that elections are an underfunded public good, and that providing more resources for elections might lead to improved voter information and participation. But we think that most popular public financing proposals would tend to exacerbate problems of polarization because they ignore the vital role of political parties.

Two recent efforts in particular come to mind. First is the so-called "matching system" approach, which seeks to encourage small donors by having the government match each small donation with a multiple of that amount in public subsidies. In New York City, for instance, a donor might choose to contribute \$50 to a candidate. The city government will then match this amount by a multiple of 6, which provides the candidate with a total of \$350 (\$50 from the individual and \$300 from the government).[4] This strategy encourages candidates to mobilize small donors, which is why reform advocates would like to adopt this matching program for state and federal elections (Malbin 2013).

We are concerned, however, that participants in matching programs are not necessarily representative of the broader electorate. As we showed in chapter 2, small donors are as ideological as large donors. For this reason, if matching programs simply mobilize the same demographic of potential donors, this dynamic might reinforce polarization.[5] To avoid these polarizing tendencies the matching system must truly expand the range of small political contributors beyond the intensely ideological donors who give money, and also encourage donations to broad-based organizations, including political parties and other kinds of multicandidate campaign committees.

The second approach to public financing that we call into question goes under the name of "Clean Elections" reforms. These have been implemented in Arizona, Connecticut, and Maine. Under Clean Elections, candidates must raise small sums of money from individuals to qualify for a lump sum of public funds for use in both the primary and the general election. Those who participate cannot accept any contributions from other entities. In theory, this political reform opens elections to a wider range of candidates (an important goal sought by reformers), but research suggests that candidates who win elections tend to be more extreme than candidates who emerge under the private system of financing (Hall 2014).

The reason ideological candidates appear to do better is related to a main argument we have been making in this book. Namely, anticorruption laws, such as Clean Elections, tend to purge pragmatic money from the electoral system. These programs essentially filter out party organizations and benefit-seeking donors (e.g., business interests, trade associations) who tend to provide financing for moderate candidates. To the happiness of some, Clean Elections reform appears to reduce the influence of these much-reviled benefit-seeking groups who pursue favorable treatment on regulations and technical aspects of policies in order to enhance their profits. But in purging self-interested money from the campaign finance system, the policy purists appear to gain influence in electoral politics (Bonica 2013; Bonica et al. 2013). Without parties and business PAC money, candidates become more dependent on ideological small donors and independent spending groups that seem to proliferate under public financing systems like Clean Elections. While such public finance programs may increase competition by putting incumbents in peril—not such a bad thing—these officeholders can be replaced all too easily by ideologues (Hall 2014; Masket and Miller 2014).

Of greater concern to us is that public financing schemes rarely consider how to enlarge the role of parties. This is regrettable because subsidizing the parties is one of the few proven ways to address both the concern about corruption and the concern about ideological polarization. We have initially characterized these twin problems as zero-sum, but public financing of the parties has the potential to address them simultaneously.

Some states already provide subsidies to parties, but the amounts are rather small. According to the National Conference of State Legislatures, 10 states provide public grants to political parties. State residents are typically given an option on tax forms to "check off" stating that they want some of their tax payment to go toward the political parties (without increasing the filer's tax liability) or add-ons (which do increase the filer's tax liability), ranging in amounts from $1 to $25. In 8 of these states the tax filer can request which party gets the funds, which are often used to defray the expenses of party conventions.[6] Political parties also benefit from lower postal rates for direct mail than other political committees. But we think that public subsidies to political parties should be larger than they are now, which would strengthen the parties' roles in elections. Properly designed, these programs could dilute the negative impact of both ideological and rent-seeking donors.

Another potential public financing proposal would provide public subsidies to each voter in the form of a voucher worth $50–$100 (Ackerman and Ayres 2002; Hasen forthcoming 2016; Lessig 2011). During each election cycle, citizens would have the option of either directing this voucher from a state or federal treasury to a candidate of their choice, or delegating this power to an intermediary group, such as a political party or political action committee (PAC). The virtue of the voucher system is that funding decisions are made through individual choices rather than statutory formulas, which plausibly enhances public deliberation and participation. Should a voucher system be attempted, we think voters should be nudged with incentives to give vouchers to political parties and multicandidate committees. One possibility is to simply make the political parties—including a minor party—the default option for voters who would rather not spend time choosing a candidate. Privileging parties in a voucher program might advance some of the positive dynamics associated with party activity (e.g., moderation, support for challengers, transparency). To be sure, the details of such a proposal would have to be worked out clearly, and an experimentation period in local elections should be included to provide insights about the consequences of this reform.

At the very least, if public financing schemes leave out the parties, these rules should not prohibit parties from using private money to support their candidates. To do otherwise invites large amounts of independent spending by issue groups with limited accountability. In Connecticut, the legislature recently changed its Clean Elections law to allow parties to support candidates with private funds.[7] We believe this is a wise change. In Minnesota, another favorable wrinkle has been added to a public financing law, allowing parties to play a strong role in elections: under the Minnesota public finance laws, candidates are required to limit their own spending, which makes them rely heavily on the party in campaigns. Notably, the Minnesota parties face their own limits on private financing, but unlike the national parties, they are allowed to coordinate with outside groups to help their candidates.[8] According to the chair of the DFL, this helps them serve as the "central hub that drives the campaign agenda."[9] And when parties drive the agenda, they typically steer it toward the median voter.

Will a Party-Centered System Work?

To summarize our argument, we predict that our reform strategy will contribute to three positive dynamics in the campaign finance system. First, it will reduce the direct reliance of candidates on ideological sources of money.

This will especially affect the individual donors who provide the bulk of money directly to candidates. The party, instead, will be able to serve as a filter for these ideological donations to reduce their power to influence electoral politics. Second, the party will use its money to finance more moderates who have the best chance of winning competitive elections. To be sure, many races are in lopsided one-party districts, but the party's ability to redistribute funds from ideological and material-minded sources to moderates should, over several election cycles, enhance moderation in the legislature. Third and finally, our party-centered strategy should diminish the importance of independent expenditures, which are often polarizing, nontransparent, and unaccountable.

These three claims are supported with evidence, but we foresee at least two reasonable objections suggesting that our proposal will not work. Let us attend to these before addressing the challenges to implementation.

Objection 1. The political parties will serve merely as conduits if they have no financing limits. This is an important concern. If a candidate faces limits and the parties do not, then the party could plausibly become an empty vessel through which candidates can avoid restrictions on their own fundraising. The classic anticircumvention approach is to impose limits on parties as a way to preclude the conduit strategy. And we believe it is precisely this party-limiting strategy, taken to unreasonable bounds, that has been so detrimental to American politics. To give one example, the federal Bipartisan Campaign Reform Act of 2002 tried to prevent federal candidates from benefiting from soft money by imposing a $10,000 limit on soft money donations to state parties (which under state laws often have no restrictions on soft money). As we explained in the previous chapter, this rule effectively "federalized" state party financing, making it extremely difficult for the state parties to run large voter mobilization campaigns for the entire party ticket (Reiff 2012). The results have been nearly catastrophic for many state parties. Not only does this rule limit their ability to help federal candidates in the state, but it impacts their voter contact efforts to help candidates in state elections.[10]

The anti-circumvention approach leads to a "whack-a-mole" dynamic in which regulators keep adding new statutes in a vain attempt to close new loopholes as they crop up. We think a better strategy would be to simply enforce rules that prohibit donors from earmarking contributions to the party. This would mean that donors could not tell the party where they want their contribution to be spent and that candidates could not legally compel the party to turn over funds on the basis of a claim that particular donations were intended for themselves.

A surer way to prevent parties from serving as conduits is to encourage their institutionalization as well-bounded, complex organizations with professional norms for decision making. One way to do this is to make them desirable organizations for offering positions of leadership to ambitious individuals. In the legislative caucus, this comes naturally because the legislative leadership usually takes control of party finances. Legislative leaders might also recruit talented members to serve on the party committee and hire professional staff to help win elections. For state committees outside the legislative caucus, it would help if parties had more autonomy over the conduct of their internal affairs, instead of being regulated heavily by state governments. One critical change would be to allow party organizations a greater role in nominating favored candidates; such an enhanced role could include the ability to provide campaign support in primary elections. This practice is currently forbidden by some state laws and, more importantly, by local political norms. Nonetheless, we would like to see the party organization become, once again, an attractive venue for the contestation of candidate nominations, rather than yielding so much power to issue activists outside the party structure who can mobilize their factions behind preferred party candidates in local primaries.

We have no illusions that our recommendations for strengthening the parties will all be cheerfully accepted. Some of the most powerful people in the party—incumbent officeholders—do not particularly like having strong party organizations because robust organizations threaten their autonomy. But, more critically, any pro-party legislation can be perceived by an incumbent as giving ammunition to the rival party as it runs a candidate to challenge the incumbent's reelection. Despite such misgivings, partisans understand the necessity of organizing collectively to win elections, particularly in states with intense competition for control of government. As we have argued throughout this book, the party committee could become more institutionalized as the central node for partisan organizing if campaign finance laws and other statutes did not inhibit party organizational development.

Objection 2. Giving party organizations more resources will not prevent ideological partisans from having significant power. Let us be clear. We do not claim that ideological partisans will be thwarted from influencing the party. If laws become more pro-party, many of the same actors, both purists and pragmatists, will continue to participate in party affairs. However, we argue that a shift in the legal terrain will tilt power *toward* the pragmatist faction. And with relatively more resources to work with, the pragmatists will have additional influence to shape the direction of the party coalition.

Directing more money to parties will not "solve" polarization. But we believe it could diminish the extremist tendencies in the system because pragmatists will have more leverage than they have now. The formal party organization is an "interest group" too, and to the degree that its loyalists dominate the resource game, they have a bigger say in how to craft messages and where to invest resources. Having financial resources would enable the formal party to defend its own interests and preferences. The party organization may not even generate more moderates in the legislature, but by having abundant campaign resources, its leadership maintains a stronger position to challenge extremists and to broker deals. As one longtime political consultant in North Carolina observed with respect to money flowing to nonparty groups, "There's nobody refereeing the fights. We're not seeing party bosses or strong chairs that can try to work out deals behind closed doors to keep it from breaking out into the public."[11]

Having control over resources means more than being able to give campaign contributions. Resource control provides the means for leadership to offer carrots and sticks (mostly carrots, we think) to encourage members to take a tough vote for a party position that is more moderate than the purist faction of the party might prefer. A leadership that lacks leverage over the far right or left wing factions of the party has little means by which to generate bipartisan support for legislation. In legislative battles, members fear that purist factions will attack them in the next election or, at the very least, refuse to give them valuable campaign support. But having the party organization to rely on as a very large source of campaign support could give legislators more confidence to buck the purist faction. Of course, a stronger party alone will not always be able to stave off challenges from the far left or right in party primaries. No amount of money or party support would have helped Eric Cantor when he lost the 2014 primary to a little-known, underfunded Tea Party candidate. But backlash from the purists might be minimized when the party organization can easily defend the reelection of officeholders who are willing to compromise despite the wishes of the purists.

As we demonstrated in the previous chapter, pragmatists are disadvantaged when the campaign finance system becomes hospitable to independent spending. While pragmatists can use nonparty organizations to wage campaigns, our analysis shows that IEs are dominated by purist groups. This arrangement gives the purists additional leverage in setting the campaign agenda and shaping the behaviors of politicians. Like the UCLA school, we view purist policy-demanders such as the NRA or MoveOn.Org as essential elements of the party coalitions. But there are dangers as these purist factions augment their power within the coalition by controlling a disproportionate share of campaign resources in elections.

Our argument is not absolutist. The parties will always rely on ideological money, which will influence their direction. Party polarization will not disappear anytime soon because polarization stems from so many other factors besides campaign money. We have also drawn attention to the strong asymmetry between the parties. The Republicans have many more highly conservative donors who view the GOP as too moderate for their liking and much prefer to finance very conservative candidates and groups. But party leaders, like John Boehner in the U.S. House, tend not to be ideologues. We think the same dynamic is mostly true at the state level. Leaders of party coalitions cannot afford to be overly ideological if they want to stay in power.

The impact of our pro-party laws should be greatest in states with professional legislatures and in states where control of the chamber is tightly contested. It is precisely here where money matters so much and where collective partisan organizing is imperative. Well-financed party organizations, particularly legislative parties, should have the power to tamp down the more ideological elements of the party coalition.

Will It Work for Congress?

Despite our theoretical expectations and our empirical analysis, we remain realistic about whether a shift to party-centered campaign finance laws will affect election dynamics at the federal level. We expect that our findings will generalize to Congress, particularly given that the strongest results we uncover are for the most professional legislatures (those that are most closely comparable to Congress). In some ways our remedy of changing campaign finance laws may be "too little, too late" to lessen the ideological divide. Nonetheless, we believe strongly that the national committees of the political parties should have fewer restrictions on financing elections. Even if the impact of financially stronger parties on polarization is minimal, we think the advantages of transparency and accountability make a powerful case for channeling money through the party committees.

The post-Watergate reforms of the 1970s passed by Congress were insufficiently flexible to adjust to the new realities of a strengthened party system (La Raja 2013). The Federal Election Campaign Act (FECA), particularly its 1974 amendments, enshrined a candidate-centered system that, in effect, treated political parties as if they were interest groups. The law did this by treating parties and PACs identically in the limits it imposed on contributions to candidates. Even the limits on party-coordinated expenditures with candidates turned out to be fairly ungenerous as the cost of elections mounted. The inefficient campaign finance system, which channeled money mostly to incumbents, started to break down in the 1990s as the party system became truly competitive for control of Congress, and the party programs diverged significantly. This situation raised the stakes for all partisans to organize collectively.

Regrettably, the constraints of FECA on parties made it implausible for them to play a significant role in organizing campaigns. And because the party limits were not adjusted for inflation, the situation only got worse as time went on. The consequence was that partisans started experimenting with soft money in the late 1980s as a way to circumvent the party limits. Soft money, including funds without source and size limits, could be used only for "party-building" purposes. In the 1990s, the parties began to spend a large portion of these funds on television ads. The parties claimed that these were issue ads to promote the party, when in reality any reasonable person would acknowledge that they were intended to help targeted candidates.

The response to party soft money by the reform community and many liberal members of Congress was the conventional anticorruption approach. The reformers pushed to ban soft money in the hope of returning to the candidate-centered campaign finance system of the 1970s, even though the party system had changed dramatically. In 2002, Congress passed a typically populist reform measure, the Bipartisan Campaign Reform Act, which banned party soft money for the national parties and created a surfeit of anticircumvention rules to prevent state party committees from using it as well. The new rules made it arduous for parties at all levels of government to organize partisan campaigns across the ticket and weakened their position vis-à-vis outside interests.[12]

As hydraulic theory would predict, partisan money began to flow in great abundance to outside organizations, some already existing (e.g., unions) and some made up on the fly. Supreme Court jurisprudence, from *Buckley v. Valeo* (1976) through *Citizens United v. FEC* (2010), consistently guaranteed, invoking First Amendment protections, that these nonparty groups would be relatively unfettered in their actions to raise and spend money. The courts, however, permitted the ban on parties, invoking the reasoning that parties, because of their close ties to candidates, might otherwise be tempted to engage in quid pro quo corruption. This reasoning stands as the only basis on which the courts currently allow restrictions on financing elections. Post-BCRA, the political parties cannot even coordinate with partisans outside the party who rely on soft money, even though these nonparty groups (many of them representing purist partisans) can coordinate with one another. The cumulative effect of populist reform has been to fracture campaign spending and disperse partisan influence, giving partisan and highly ideological interest groups greater leverage, compared with the party insiders who operate through formal party committees.

Outside spending in federal elections is now firmly institutionalized and is unlikely to dissipate any time soon. Super PACs and 501(c)4s have attracted the intense support of very wealthy individuals and prominent national issue groups. These political actors will continue to focus their considerable resources on targeted races, even if the parties become financially stronger. The potential for exerting national-level influence, even when races are lost, is simply too enticing for them to resist. A casino magnate like Sheldon Adelson surely understands that he advances his cause with a gamble on targeted races, even when his candidate loses.

We are therefore pessimistic about a return to an era in the 1980s when candidates controlled the electoral environment with their own committee resources. The purist factions in either party have strong incentives to challenge party pragmatists with the threat of running their own campaigns rather than cooperating within the party structure. Even if pragmatists running the national party committees gain more financial power under a more pro-party system, the purist factions will see benefits in running advertisements to set the campaign agenda on their own terms. For this reason, the leaders of issue groups such as the Club for Growth or NRA on the right, or Sierra Club and NARAL on the left, will continue to mount narrow issue campaigns in selected races throughout the country.

Despite our pessimism about using enlightened campaign finance law to turn back the clock on polarization at the federal level, we think that the reforms we advocate are worth pursuing for the other reasons we mentioned. First, changes at the state level should create consequences that bubble up over time to the federal level, since candidates who run for the state legislature are the main pool of candidates for Congress. Second, implementing pro-party laws at the federal level will also increase accountability as an increased flow of money would have to be routed through highly transparent political parties. Third, by pushing more money back to traditional campaign organizations, the FEC would have the appropriate role of regulating a greater portion of money in politics, rather than involving "amateur" agencies such as the IRS or SEC.

Fortunately, there is some movement in the direction of pro-party laws, although this has resulted from the handiwork of the Supreme Court rather than Congress. As a result of the *McCutcheon v. FEC* (2014) decision, contributors no longer face the aggregate contribution limits that were imposed by the 1974 FECA. Before this decision, they would have been allowed to give a maximum of $123,200 to all political committees in the 2013–2014 election cycle.[13] The new ruling enables limitless contributions, meaning that parties do not compete as much with candidates for contributions. This allows them to set up joint-fundraising operations to raise money for both the party and its candidates. States have also begun changing their laws to comply with the ruling.[14] The problem in most states, however, is that when they adjust contribution limits, they typically focus only on raising the limits for contributions to candidates and not those going to parties (which is not surprising, since such changes tend to help the incumbents who write the laws). In the 2013 session, for example, of the nine states that raised or eliminated contribution limits, only two states—Connecticut and Maryland—raised the limits on donations to parties (and these were very modest increases).[15] The other seven states reemphasized the candidate-centered approach by raising limits only on individual and PAC contributions to candidates.[16]

Can Pro-Party Reforms Be Implemented?

We said at the outset of this book that our position regarding greater financial autonomy for the political parties would not be popular. We are arguing for strengthening party organizations by allowing them a greater role in funding political campaigns. This recommendation comes at a time when much of the public disdains a party system that has generated considerable antagonism and gridlock at the federal level and in many states. But it is precisely because of the polarized nature of the party system that we are making our proposals.

Our paradoxical argument is that fortifying party organizations should make the parties less shrill and more open to compromise. We know, however, that this argument may not resonate with the broader public, even if it has the support of many expert scholars in the field (Cain 2014; McCarty 2013; Persily 2014; Pildes 2014; Wallison and Gora 2009). Some of the findings that buttress our arguments seem flatly counterintuitive. To take one example, those who believe the solution to better democracy is increasing the number of small donors may regard with suspicion our finding that expanding the number of small donors is likely only to intensify the problems of polarization. To be sure, the push for a greater number of small donors seems to accord with arguments favoring equity and opposing corruption, but the effort to increase the number of small donors is unlikely to create a less ideological population of donors. In fact, the pursuit of small donors will simply reinforce a strong bias in the political system toward highly ideological policy positions at the expense of moderation and compromise.

True, this kind of policy distortion is different from the kind we associate with corruption, but it is no less a form of representational bias in favor of wealthier and more educated segments of the public. As Larry Bartels has argued in his book, *Unequal Democracy*, the chief distortion in policymaking is not corruption but elite ideology, which is reflected in the donor class (Bartels 2008). Another seminal book by McCarty, Poole, and Rosenthal, *Polarized America* (2006), notes that the distancing of party elites and ensuing gridlock prevent government from adjusting policies to changing economic and demographic circumstances in order to dampen growing inequalities. Not surprisingly, the least fortunate suffer when policy compromises cannot be forged to effect policy adjustments.

Our reform proposal to strengthen parties financially will be met with considerable skepticism because it challenges the prevailing populist narrative about the malign effects of money in politics. We have put forth a pluralist framework for understanding the campaign finance system that asks concerned observers to focus less on the one-to-one exchanges between donors and candidates, and more on the institutional flow of money in politics though different kinds of political groups. We see institutional mediation of party organizations as a partial means to dampen the factional power of political donors who tend to pull the party coalitions to the extremes on social or economic issues. The wealthy Americans who donate money have policy positions and priorities that are sometimes (but not always) at odds with the preferences of the broader population (Gilens 2012; Rigby and Wright 2013). Our recommendation to facilitate the flow of money through political parties will not necessarily change this imbalance in power; however, we believe that the pragmatic orientation of the leadership of the party organizations will help to prevent the worst excesses of extremism that thwart the proper functioning of government, to the detriment of the most marginalized citizens.

We turn to political parties to help dampen the power of financially strong ideological interests. Our pluralist solution of channeling more money through parties is imperfect, of course, because the party organizations will remain vulnerable to capture insofar as they come to rely on narrow financial constituencies (which would imply very thin pluralism within the parties). But given the imperative to win elections and secure the rewards of elective office, the pragmatists who typically control the party organizations are likely to appreciate that kowtowing to narrow interests puts at risk the party's control of government. We believe that the pragmatic ambition for power and status, which is inherent in human nature, will prove ample to balance the passion of the purist factions for causes that may lead to intolerance for rival opinions, delegitimizing of the opposition, and gridlock. This is not a cynical view, but it affirms the Madisonian perspective that democracies cannot rely on virtue alone to ensure effective functioning.

Knowing that we face skepticism regarding our fundamentally novel approach to campaign finance, we lay out three challenges relating to the practicality and feasibility of our proposal in anticipation of future debates about actually implementing reform. Briefly, these challenges are:

1. Prevailing narratives in the reform community about reform goals and solutions may not countenance reform policies that do not emphasize the prevention of corruption and/or the increase in equity and democracy in our political system;
2. Strategic calculations about how reform affects partisan outcomes will make one party or the other refuse to compromise on a policy; and
3. Mass opinion about campaign finance will be inimical to our "pro-party" reform proposals.

We discuss these challenges in the following sections.

1. The Prevailing Narrative: "Money Is the Root of All Evil"

A common trope among advocates for political reform is that money is the genesis of all problems in a democracy. By "money," most reform advocates are referring to the political contributions given to candidates for office (thereby ignoring or downplaying the greater sums spent on lobbying, think tanks, and foundations that propose policies). The call for reform of the campaign finance system is almost entirely rooted in a narrative about political corruption. This is a story that is readily grasped by the public, and it has been exploited cynically at times by some political reformers, even though they acknowledge, in private, that the problem of money in politics is infinitely more complex.[17]

There are legitimate concerns in any democracy that the wealthy may use their resources to bend policies in their favor and undermine the principle of political equality. At the nation's founding, fears of corruption of government by moneyed interests (bankers especially) pervaded the arguments of antifederalists against the establishment of a strong national government that would be vulnerable to capture by such groups. The focus on corruption was reinforced at the turn of the 20th century when the power of large corporate trusts to shape state and federal policies threatened the basic democratic principle of equality. Progressive reformers attributed the inability of government to address problems associated with monopolies, urban blight, and immigration to the corrupting influence of corporate interests (railroads, mining, steel, etc.) that bought off party bosses and politicians. The problems of democracy, according to Progressives, could be traced directly to the use of money to buy votes and the related party spoils system that distorted public policy to advance private interests (Croly 1963; McGerr 1986; Milkis 2009). With the fervor of a moral and religious crusade (Rosenblum 2008, 117; Underkuffler 2013), the Progressives helped pass a raft of reforms that aimed to cut the ties between the political parties and wealthy interests.[18] These reforms included direct primaries, nonpartisan elections, and campaign finance reform. A major assumption was that *more democracy*—with people making political decisions directly—would decrease the importance of money in politics.

A powerful argument of Progressive reformers continues to resonate today. This is that the nation would be "a more perfect union" without the action of money in politics. We see this argument in its most articulate form in two recent books: *Republic, Lost* by Larry Lessig (2011) and *Corruption in America* by Zephyr Teachout (2014). These heirs of the Progressives view the problem as an "economy of influence" fueled by the relentless pursuit of campaign money for reelection. The insidious dynamic of the endless chase after money distorts the genuine expression of public purpose and even taints the efforts of good people trying to do the right thing (Lessig 2011). Like the Progressives before them, these reformers believe that the campaign finance system is chiefly to blame for the failure to enact good policies on pressing issues such as banking regulation, environmental protection, and immigration.

Not surprisingly, the corruption narrative powerfully shapes the design of campaign finance laws. The focus of most reforms is to keep money out of politics by limiting the source and size of contributions. Enactment of limits is routinely accompanied by a raft of anticircumvention statutes that attempt the Sisyphean task of trying to prevent money from sluicing its way into campaigns through backdoor channels. Strategies of this sort have constituted the foundational approach of American campaign finance reform, as exemplified at the federal level by the BCRA of 2002.

We think this approach is largely futile, given the hydraulics of the system, and even detrimental to the political system. Experience since the passage of the BCRA has proved our point; the act has occasioned the explosion of nonparty groups that now spend as much on elections as parties and candidates. At the state level, we demonstrated in chapter 5 a similar dynamic, revealing that independent spending by issue groups has increased dramatically precisely in states where campaign finance laws have limited contributions to and from political parties.

The consequence of the anticorruption, populist approach, then, has been to elevate parties of principle over parties of interest. David Hume, the great 18th-century British political philosopher, admired parties of principle but preferred parties of interest because they were reasonable and capable of compromise.[19] The flexibility of such parties is essential in a society that can be divided on irreconcilable issues (such as, in Hume's day, religion and today, social or economic dogmas). We have argued throughout this book that parties include both the purists, who are motivated by causes, ideologies, and virtue, and pragmatists, who are motivated by status, power, and material benefits. Campaign finance laws to date have been more effective at curbing contributions from pragmatic interests, specifically the party organizations and business interests, than from ideological, purist interests.[20] The purists benefit because they are typically willing to take greater risks to circumvent the laws and are constitutionally protected more than are political parties with respect to First Amendment jurisprudence.

The impact of pro-purist campaign finance rules is a different kind of distortion in the political system than the kind lamented by traditional reformers. The party system tilts toward ideological extremes in each party coalition. In the rhetoric of reformers, giving money for issue causes appears morally praiseworthy, while giving for materially self-interested reasons is tantamount to sin. The argument is specious: the issue causes espoused by ideological donors tend to be unrepresentative—they do not reflect the priorities and preferences of most American voters. Such giving is not morally praiseworthy if it biases a democratic polity.

The concern of many contemporary advocates for reform is that money in politics distorts equal representation, even though they tend to use the vague term of "corruption" to make a case for laws that they believe would minimize representational bias. Legislators have a challenging task as politicians because they must try to represent multiple constituencies, which include district voters, issue groups, partisan activists, and yes, donors.[21] But we would argue that their primary constituency is the local district voters, and the best approximation to reflecting the positions of those voters is to be close to the median voter. In this way, legislators should maximize, or at least balance, district representation; and the legislature as a whole should also become aligned more closely with the median voter in the state (see, for example, Stephanopoulos 2015). As we have demonstrated in this book, pro-party campaign finance laws will tend to align members of the legislature more closely with the median voter.

The desire to limit the power of wealthy donors in the system is understandable. But the regulatory axe does not fall equally on all wealthy donors. The guiding approach of contemporary reforms puts too much emphasis on the prevention of corruption when it might more profitably cultivate a system that encourages integration and balance of interests (Cain 2014). This is the kind of Madisonian pluralism that is difficult to achieve but imperative to cultivate if a society is committed to both fairness and the capacity to govern. Pluralism and political integration are served by enabling party organizations to play a robust role in financing elections and campaigns. The fact that pragmatists reconstitute themselves through "shadow parties" via super PACs is a decidedly poor substitute for having campaigns operate with the clearly identifiable party labels of the Republican or Democratic organizations. The UCLA school may argue that the partisan pragmatists reconstruct their power by campaigning through super PACs, but it is decidedly a power in which the collective party is *less responsible* to the public.[22]

In the future, we think the reform narrative on campaign finance should emphasize fairness, stability, and accountability more than corruption. To achieve these goals we favor the pluralist approach, which has been neglected in debates on reform (Cain 2014). The prevailing populist approaches overestimate the capacity of citizens to participate in small donor programs or to organize themselves to challenge the power of entrenched and ideological interests. Instead, we see a vital role for intermediaries such as political parties, which have traditionally played a strong role in aggregating interests, forging consensus, and allowing for fluid coalitions. While pluralism has its flaws in representing less well-off constituencies (and we try to address some of them here), its pathway reflects the reality that citizens are often best represented by interested organizations and individuals.

2. Strategic Partisanship to Game the System

There is no doubt that partisans will ask themselves how any proposed political reform will affect their ability to wage successful campaigns. No one, particularly an incumbent officeholder, wants to change the status quo if he thinks the new rules will hurt him electorally (Samples 2006). In a similar way, partisans will seek rule changes that they believe will give them strategic advantages over rivals (La Raja 2008). So an important question to consider for implementation of our suggestions is whether a proposal to make parties financially stronger will advantage Democrats or Republicans. To the degree that partisans see an advantage to the other side, they will resist reform.

Our sense is that Democrats may be more concerned than Republicans with a policy that allows additional money to flow through the parties. One reason is that the Democratic activists in the party are more likely to hold ideological views that are antithetical to our party-centric approach. Given a commitment to equality, liberal activists among the Democrats often espouse a Progressive-era mindset that money in politics favors policies for the self-interested rich. Democratic strategists have even wielded campaign finance reform as a populist campaign issue that they believe burnishes their Jacksonian image as the party of the common citizen.[23] Meanwhile, conservative activists in the Republican Party tend to espouse the values summoned by the word *liberty*, and they are more inclined to support laissez-faire policies on money in politics.

From a strategic perspective, the elected leadership of the political parties will worry about the impact of laws on the electoral prospects of the party. Democrats, for example, may fear being swamped by corporate support flowing disproportionately to the Republican Party. This concern is not mere speculation. We noted in chapter 3 that business interests tend to favor right-of-center candidates, which would locate them closer to the Republican Party. On the other hand, business interests are typically strategic: they give to both parties, and even show favoritism to Democrats when they are in power (Herrnson, Shaiko, and Wilcox 2005). Moreover, in a previous study that we conducted, we found no difference in partisan outcomes in states that allow corporations to make unlimited contributions or to spend money in politics without restrictions (La Raja and Schaffner 2014).

Democrats may also worry that the Republicans will benefit from having a larger number of wealthy individual donors who support Republicans. We know of no studies that have shown this to be true. Wealthy liberal donors have been quite generous to Democratic candidates and parties. Indeed, our analysis in chapter 2 suggests that liberal donors have been more willing to give to the Democratic Party than conservative donors to the Republican Party. Historically, we should note that Democrats have tended to rely more heavily than Republicans on large donors because their share of middle- and upper-middle-income donors willing to give donations to the party was not as large the Republicans'. Indeed, the average contribution to Republicans has typically been lower than the average contribution to Democrats (La

Raja 2008). This historical pattern may be changing as social media sites attract liberal donors of modest means who are professionals in the education, marketing, and technology-based sectors.

Democrats may also believe that the current system that punishes party organizations and encourages outside spending is favorable to their party. Indeed, we have shown that a large fraction of independent spending comes from labor unions, which almost always support Democratic candidates. The organizational structure of labor organizations may advantage them over major business groups in waging such campaigns. Labor unions appear less averse to taking strong public positions in campaigns because these actions will not affect them as negatively as such positions affect corporations, which generally try to maintain a nonpartisan image among customers. However, the historical advantages of labor unions as independent campaigners may be waning: our analysis at the state level indicates that business interests and conservative groups are now equally engaged in independent campaigning. As the use of nonparty groups become more institutionalized through super PACs and 501(c)4 groups, the relative strength of labor unions in campaigns may erode.

To Democratic partisans who fear our pro-party proposals, we say that we have found little evidence in our research that making the parties financially stronger will preferentially benefit Republicans. In electorally competitive states, including states that allow unlimited contributions to parties, we observe financial parity between the parties. And state party leaders insist that having additional resources available to the parties would allow them to invest in building out the long-term infrastructure of sophisticated voter lists, and to develop grassroots networks in legislative districts throughout the state.[24] At present, state parties are being eclipsed by national-level groups and are losing the capacity to support local parties, which rely on volunteers to do most of the work (Overby 2014). We are also convinced that a pro-party campaign finance system will make it easier for third parties to play a role in elections when grassroots support exists for minor parties. With easier access to funds, third parties can launch voter signature drives to get on the ballot, advertise their party, and support candidates.

3. Can Public Opinion on Campaign Finance Reform Be Changed?

One considerable challenge will be persuading the public that political parties should be larger players in financing campaigns. Americans appear to dislike the party system and may not fully appreciate the important role of political parties in a democracy. On the other hand, our own research into public opinion reveals that voters do, in fact, acknowledge the unique relationship between candidates and parties, and they see a legitimate and robust role for parties in financing elections. As we demonstrate below, voters seem more inclined to grant the parties greater freedom to raise and spend money compared to other groups. This suggests the plausibility of making a persuasive argument to pursue party-centered reforms in the campaign finance system. The timing is especially appropriate now, as voters are concerned about "dark money" being spent by groups they do not recognize. If the public could be convinced that the campaign system would be more transparent and accountable, they might be willing to support pro-party reforms, particularly if such reforms *also* address ongoing concerns about corruption in the financing of elections. This strategy would entail civic education about the value of political parties and the potential impact of reforms in improving governance. Americans tend to have a romanticized view of democracy that overvalues the power of individuals, acting alone, to achieve the common good (Pildes 2015).

Perhaps because of this highly individualized conception of how democracy works, Americans strongly believe that the campaign finance system should first and foremost prevent corruption. When asked to rank the importance of promoting certain outcomes in the campaign finance system, "reducing corruption" lands at the top of the list for voters, regardless of party (see figure 6.1). The next most important category is "preventing unequal influence," which citizens affiliated with both parties ranked almost equally (party data not shown here). The third highest goal that citizens want policymakers to pursue is "ensuring transparency." This concern might help policymakers frame an argument for having a party-centered system, since party control of campaign funds would make disclosure of campaign finance much more stringent than the current situation in which mystery groups spend independently without strong disclosure requirements.

The last two goals are, in ranked order, "promoting competition" and "preserving freedom." In elite debates, preserving freedom is *the* central argument claimed by opponents of campaign finance regulation. Yet the public does not appear as committed to this value when considering the purpose of campaign finance rules. Among the options we offered in our survey, preserving freedom was ranked last by respondents, including Republicans whose leaders tend to champion freedom in contentious battles over reform.[25]

Given the overriding concern of the public to focus on the prevention of corruption, it is not surprising that citizens intuitively like the idea of

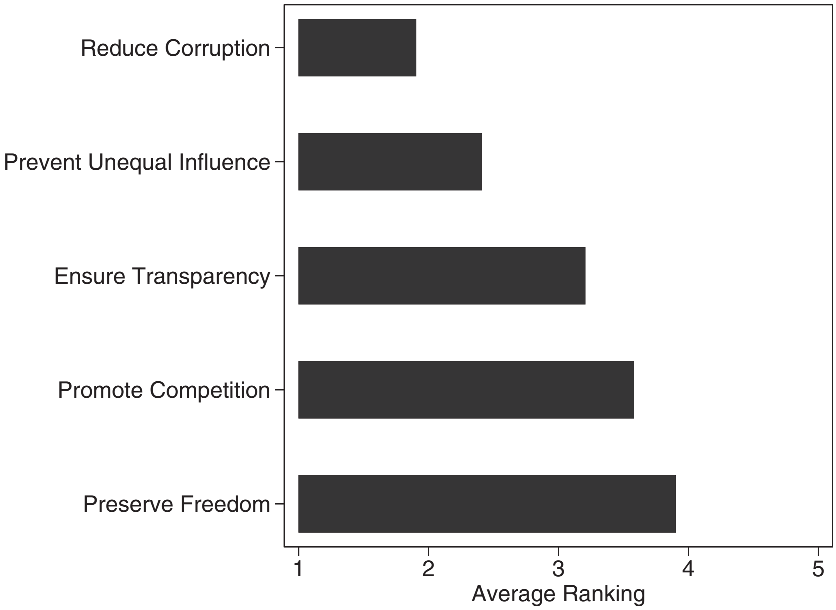

Figure 6.1. What Goal Is Most Important for Campaign Finance Reform? Average Rank Ordering of Preferences among Respondents (Scale: a high of 1 to a low of 5). (*Note:* Wording of question: "There are many values that policy makers must take into account when deciding what kinds of laws they should enact regarding political fundraising. Please rank the following values in terms of how much weight you think they should be given." Reponses are: Preserve freedom to contribute and spend money, Ensure no individuals or groups have unequal influence, Reduce corruption in the political system, Ensure competition in elections, Help public know who contributes and spends money on elections. Data collected by the 2012 Cooperative Congressional Election Survey (postelection). Number of observations = 785.)

imposing contribution limits on giving to candidates and parties. Putting a limit on contributions—including very low limits—seems like the right way to address the problem of big money in politics. But as we demonstrate in this book, limiting the parties creates unintended negative consequences such as ideological polarization and reduced accountability for independent spending. A public that pays scant attention to the details of campaign finance and has less-than-expert knowledge of how the political system actually works cannot be expected to understand the full implications of funding limitations across the spectrum of donor and candidate types. In fact, the vast majority of Americans hardly care about campaign finance as an issue.

In an annual Gallup Poll about "the most important issues," Americans consistently rank campaign finance near the bottom. In a 2012 poll conducted by Pew Research, the typical respondent listed campaign finance as 22nd out of 23 issues listed, with just over 1 in 4 saying it should be a "top priority" for the president and Congress. Sadly, it barely nosed out "global warming," which filled the last spot.[26] Nevertheless, despite the low salience of this very complex issue, conventional reformers continue to present low contribution limits to the public as an essential remedy to fixing the problems with the campaign finance system and restoring public trust.[27]

As far as we can tell there is no research that demonstrates a clear link between low contribution limits and reduced corruption or greater trust in government. In fact, studies appear to suggest that no relationship exists between various kinds of campaign finance laws and levels of trust or efficacy (Cordis and Milyo 2013; Persily and Lammie 2004; Primo and Milyo 2006). We believe that reform advocates do a disservice to the public when they make claims that are lacking in empirical support while pushing for reforms that research shows cause pathologies in the campaign finance system. For this reason, we encourage a cautious approach to reform that builds bipartisan consensus around common values and incremental solutions that have demonstrable outcomes. We think it inappropriate to make reform a partisan issue, or to attempt such sweeping changes as a constitutional amendment, which would add manifold complexities to regulating money in politics.[28]

Our proposal to strengthen party financing of elections is both incremental and compatible with public understandings of the unique role that parties play in a democracy. Voters appear willing to grant more discretion to the parties in financing elections if they can be reassured that the problems of corruption are being addressed. To understand public sentiment we asked voters to what extent they think various groups should be allowed to contribute to political candidates. We asked this about four groups: political parties, advocacy groups, labor unions, and businesses. The response choices were (1) Not at all; (2) Should be allowed to contribute a small (but limited) amount; (3) Should be allowed to contribute a large (but limited) amount; (4) Should be allowed unlimited contributions.

Our findings, presented in figure 6.2, show that voters are most willing to grant parties greater freedom to support candidates. The highest segment of each bar (black) indicates the proportion of voters who believe that a particular group should *not* be allowed to contribute money to a candidate. Only 23 percent said this about political parties, which is less than for any other group. But of greater importance is the willingness of many citizens to lightly regulate party finances. In our sample, almost half of respondents

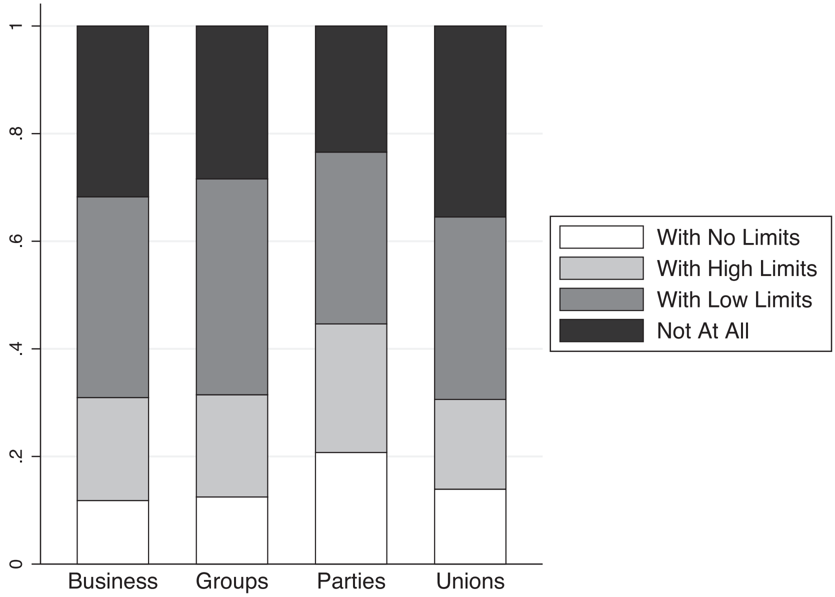

Figure 6.2. Support for Contribution Limits to Candidates for Different Types of Contributors. (*Note:* Based on results from a survey of 1,000 American adults conducted in October 2014 by YouGov.)

would allow parties to contribute without limits (the lowest, white, segment) or very large amounts (the second lowest, or light gray, segment), a figure that outstrips what they would allow for other groups. This comparison includes issue groups, which are the party's principal competition for shaping the ideology of the party coalition.

Support for imposing few restrictions on parties varied by the ideology of the respondent, with liberals being somewhat less in favor of no limits or high limits, but the differences are not that large. Almost 40 percent of liberals would like to see no limits or high limits, while just over 50 percent of conservatives feel the same way. We conclude that the public seems amenable to having pro-party laws, and a sustained educational campaign about the benefits of a party-centered system could increase support beyond existing levels.

In building the case for policy change, the traditional reform community will need to alter its anticorruption approach and raise awareness of other problems in the campaign finance system. Shifting away from the dominant corruption narrative will not be easy, because that narrative is familiar and readily graspable by the public. Moreover, the conventional advocacy strategy generates passion among loyal reform constituencies and financial contributions to the organizations that promote anticorruption reform. But reframing the debate is imperative and might begin by acknowledging that robust democratic politics requires a significant amount of political spending. Even grassroots campaigns require money for building voter lists, training volunteers, and sustaining the organizational infrastructure. The essential question is how does such money *enter* the political system? A good reform argument will elucidate the best institutional pathways for bringing money into politics, including forms of public financing. We encourage a debate that raises the salience of political parties as part of the solution for making the campaign finance system less dysfunctional. This debate would make a clear connection between the growth of "dark money" by outside groups and the unrealistic constraints on political parties.

We note that prominent commentators in major national newspapers have made compelling logical arguments for allowing parties to play a larger role in financing elections as a means of avoiding the worst pathologies of the federal campaign finance system (Brooks 2014; Rauch 2014). We hope our empirical work gives additional credibility to such arguments. Others have framed an argument for reform in ways that resonate with broader concerns about inequality and the chaos of a system without apparent rules. Thomas Edsall, for example, writing in the *New York Times*, argues that the system has become a "two-class structure of election financing": one that is accountable and promotes broader participation, and the other that is opaque and dominated by a few wealthy individuals. He writes: "Policing the hodgepodge of regulations, statutes and rulings governing elections has become virtually impossible. A kind of lawlessness prevails that is incompatible with the goals of democracy."[29]

We agree that the campaign finance system is in disorder in many states and especially at the federal level. For this reason, political elites need to make a credible case that pro-party laws would bring coherence and accountability to the system. It will be essential to emphasize the important role of parties in making the broader system work adequately and to remind voters that they have the power to hold parties accountable in ways that are not possible with interest groups. The reforms should build on the fact that voters understand the legitimacy of parties and candidates working together. This strategy to promote a party-centered system will work if reforms also address overriding concerns about corruption. For this reason, reforms should be specific about how parties would disclose their financial activity, and how the rules will make it difficult for parties to be merely cash conduits for their candidates.

Proposals might also consider providing generous subsidies to parties—minor parties too—so they do not rely exclusively on private money.

Based on the findings in this book, we hope to underscore to the public that the prevailing campaign system advances the politics of the extreme elements in the major parties. This kind of bias seems as unfair as the notorious kind of rent-seeking pursued by wealthy interests at the broader expense of the public and its governing institutions. By restoring the party organizations to positions as central players in campaigns, we expect greater coherence in political campaigns, better balance in the representation of interests, and more effective governance. By reinvigorating party organizations, we hope that the party-centered campaign finance system will help shift highly contentious debates in the nation's legislatures toward areas of common ground and fertile policymaking.