

The Funding of Political Parties in the Anglo-Saxon Orbit

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Even in the “Anglo-Saxon orbit” – Australia, the United Kingdom, Canada¹ and the United States – public subsidies for political parties seem to have become a necessity because there is no easy way to bridge the gap between the expenditure that is necessary for political purposes and the funds raised from voluntary donations to parties and candidates. Experience of political corruption associated with party fund-raising and unequal opportunities for party competition have also contributed to the proliferation of such subsidies. Each system of financing has been a specific response to problems resulting from previous strategies of fund-raising and spending by political parties. This chapter explores the variety in the financing of party politics in these four predominantly English-speaking established democracies.

1. The Costs of Democracy

Electoral systems based on single-member constituencies have made the political cultures of the countries in the Anglo-Saxon orbit predominantly campaign-oriented. In these countries the term “political finance” is virtually synonymous with “campaign finance” – money spent in order to influence the outcome of an election. Election campaigns devour the bulk of political spending, while the funding of party organizations’ routine, inter-election activities absorbs far less money.

1.1. Political Finance on the Political Agenda

Generally speaking political finance is a “restless” topic. One item, however, withstands the whirlwind of change: once introduced, public subsidies are never subsequently abolished.

The British Corrupt and Illegal Practices (Prevention) Act of 1883 was the starting point for the Australian and Canadian systems of political finance. Recently this “mother of political finance regulation” has been subject to profound legal changes. In October 1998 the Committee on Standards in Public Life, chaired by

Lord Neill of Bladen, published a special report on the funding of political parties in the UK (United Kingdom 1998). Its recommendations were broadly supported by the major parties. In July 1999 the Labour government issued a White Paper in which it accepted most of the committee’s proposals (United Kingdom 1999). The resulting Political Parties, Elections and Referendums Act of 2000 received the Royal Assent on 30 November 2000 (United Kingdom 2000).

Among the established democracies Canada stands out for its highly successful effort (the Canada Elections Act 1974) to rid itself of the spectres of corruption and scandal usually connected with the funding of politics by means of an effective political finance regime. The USA and Australia have been less successful. Beginning with the Commonwealth Electoral Act, political finance has been a topic on the public agenda in Australia since 1902. Not until 1981 did a Labor government in the state of New South Wales introduce public funding and disclosure obligations for political parties. A federal Labor government introduced public funding and disclosure rules in 1984. Since then the federal legislation has been amended several times.

The USA has a long history of federal campaign finance laws. The Federal Election Campaign Act of 1971 (FECA), which deals with federal, especially presidential, elections, stands out as the most important regulation of campaign finance in American history. It is the basis of today’s very extensive regulation. Moreover, it created an independent regulatory agency charged with guaranteeing public disclosure of funds raised and spent in federal elections.

For non-federal elections, each state or province in the three federal systems (Britain, which does not have a federal structure, being excluded) may establish campaign finance rules for elections held within its borders. American cities and counties may even apply specific rules governing the funding of local elections. Rules at the non-federal levels may differ considerably, making it impossible to provide a general account of non-federal political finance. This chapter will deal only

* This chapter summarizes four of the twelve case studies prepared for International IDEA by Ruud Koole (Leiden, Netherlands) and Karl-Heinz Nassmacher (Oldenburg, Germany). The sections on the UK and the USA were written by Ruud Koole, who acknowledges comments by Michael Pinto-Duschinsky and Galen Irwin. The sections on Australia and Canada were completed by Karl-Heinz Nassmacher, who is grateful to Dima Amr and Rainer Lisowski for preparing initial drafts for those two sections.

with the federal level in Australia, Canada and the USA as well as the national level in the UK.

Today, political finance in the UK and Canada plays an important role for political parties. In both countries campaigns are run predominantly by parties. Candidates and their individual committees dominate US campaigns. US political finance is almost completely candidate-oriented as inter-election party organizations are relatively weak. The situation in Australia is less clear-cut. For all four countries it is quite obvious that election campaigns have become more expensive.

1.2. Levels of Spending

In the USA an increasing amount of money is spent to influence the outcome of elections, not by candidates or by parties, but by formally independent groups. Groups trying to influence the outcome of elections in other countries do so mostly by giving money to candidates or parties. Expenditure by parties and candidates still constitutes the bulk of political spending, and it is a subject of comparative research as well as an issue of political debate. Concerning the costs of party activity in national politics, financial reports produced by parties and candidates since the 1970s provide much of the information on the four countries compared in this chapter.

Only four times in five decades have political scientists tried to answer the question, How much money is spent on party apparatus and/or election campaigns? In 1963 Heidenheimer estimated the per capita cost of party activities for “a nine-month election-year time span” around 1960 to be AUS£0,19 for Australia (Int’l \$ 2,50), GBP 0,19 for the UK (Int’l \$ 3,70), DEM 2,73 for Germany (Int’l \$ 4,90), USD 2,53 for the USA (Int’l \$ 14,70), JPY 150 for Japan (Int’l \$ 5,37), ITL 1.000 for Italy (Int’l \$ 11,35) and 25,70 Israeli Pounds for Israel (Int’l \$ 0,002) (Heidenheimer 1963) (For an explanation of the use of International Dollars, please see *Methodology*). Heidenheimer’s conclusion, repeated in 1970, was summed up by an index of expenditure using the average hourly wage. The index placed **Australia** and the **UK** in the lower-cost stratum, the **USA**, Germany and Japan being about twice as costly. Canada was not mentioned (Heidenheimer 1970). These findings were quite in line with the “cash costs of electioneering” reported by Heard (1960:373–375).

Using information available for the late 1970s, the

present author calculated the costs of national politics for a full four-year election cycle per voter to be: for the UK, DEM 5; for Canada, DEM 7; for the USA, DEM 8; for the Netherlands, DEM 9; for West Germany DEM 21; and for Sweden DEM 27 (Nassmacher 1986). The conclusion based on this data was to label the UK, Canada, the USA and the Netherlands “moderate-expenditure countries”. This sample did not cover Australia.

On the basis of more recent data, Italy, Austria, Israel, Sweden and Japan have been identified as “high-expenditure” countries, while the UK, Canada, Australia and the Netherlands still belong to the group of established democracies with a moderate level of party and campaign expenses. The most significant change of recent years concerns the USA, where an increase of political expenditure – even adjusted for inflation, it tripled between 1976 and 1996 – has now put that country up with Germany, France and Spain among the “medium-expenditure countries” (Nassmacher 2001:183).

1.3. Types of Spending: Routine and Campaign

With regard to the amount of money needed for party activity, all established democracies show similar patterns. Election years are characterized by high levels of income as well as expenditure. As might be expected, the share of expenses for “public relations and campaigns” in total expenditure varies between election and non-election years. Any comparison over time must therefore consider entire election cycles. The terms “(permanent) organizational spending” and “(extra) election spending” emphasize some aspects which are not connoted by everyday language. Party headquarters spend considerably more on “routine operations” and on special campaign expenses in election years. Although campaign activities paid for by the party headquarters amount to impressive figures, there is also a considerable outlay of fixed costs for permanent party organizations in the UK and Canada.

A traditional feature of Commonwealth politics is subsidies in kind to support party activities which tend to reduce the need for cash for election campaigns. In Australia, the UK and Canada preparation of the electoral registers is the responsibility of public authorities, thus rendering US-style voter registration drives unnecessary. Compulsory voting (as in Australia) is another, although rare, means of public support.

Free postal services (not just legislators’ franking

privilege), reduced rates for direct mail, advertising at public expense such as the renting of billboards, the provision of signs by municipal authorities, and the use of public buildings for party rallies should also be mentioned. The net value of such subsidies in kind is very difficult to estimate. In the UK candidates in a parliamentary election or an election to the European Parliament are entitled to free postage for one letter to every elector in the constituency. The total cost of free postage at the 1997 general election was GBP 20,5 million (Int'l \$ 32 m.). The free hire of halls for the purpose of election rallies or meetings in buildings such as schools maintained by public funds is available in the UK to both parliamentary candidates and candidates in local elections.

Media expenses are an important component of party expenditure. Television and radio are needed to transmit political messages. Public broadcasting corporations provide free air time to all parties for campaign purposes.

In the UK free broadcasting time is conventionally allocated to parties both during election campaigns and between elections by the BBC, and on a voluntary basis by commercial channels, which consider it a public duty. The ratio of broadcasting time allotted to the Labour Party, the Conservative Party and the Liberal Democrats is 5 : 5 : 4. Paid political advertising on British radio or television is prohibited to political parties, candidates or interest groups (United Kingdom 1998).

In Australia free media time has traditionally been provided by state-owned radio and television services for policy speeches (which correspond to a party election manifesto) and advertisements, and by commercial radio and television stations for policy speeches. Formerly a statute regulating media access prohibited political parties from buying media time and required broadcasters to provide some free time for party advertisements. In 1992, however, this law was declared unconstitutional by the High Court, which held that it interfered excessively with the freedom of speech necessary for free elections under a system of representative government. As a result the effects of this regulation were never tested at a general election.

In Canada radio and television stations have to make up to 6,5 hours of prime time available for paid advertising or political broadcasts by the parties during the last four weeks of the election campaign. Since 1983 a Broadcasting Arbitrator has allocated the time

between the parties according to a formula based on the number of seats held and the party's vote in the previous general election, as well as the number of its candidates in the current election. No party may receive more than half of the total time (Stanbury 1993:71).

The provision of free media time saves parties in Australia, the UK and Canada considerable sums of money during election campaigns, in contrast to their US counterparts.

1.4. Items of Spending: Public Relations, Staff and Offices

Setting aside national peculiarities, some relevant pieces of information can be computed from the standardized reporting forms used in many countries, at least at the national level. Unfortunately, the data available does not enable us to distinguish spending on non-party media (television and radio, print media such as newspapers and magazines, and billboard advertising) from spending on party-produced media (brochures and leaflets) or on meetings, conferences and rallies aimed at policy development and the public presentation of policies and politicians.

The bulk of the campaign funds in most established democracies still goes into media advertising and party rallies. A traditional campaign event is a party rally convened to listen to and cheer a key speaker who is a presidential "hopeful", a cabinet member or a high-ranking member of the parliamentary caucus. Expenses are mostly for the rent of halls rather than for travel expenses of speakers or participants. However, a trend towards more spending on professional electoral research and communication technology is discernible in all parties which can afford these options.

During non-election periods, even in the Anglo-Saxon orbit, an increasing amount of money is spent on salaries for paid party workers and expenses for permanent offices. The latter category includes rent of premises, office equipment and machinery, stationery, telephone charges and postage. Spending on professional personnel seems to have increased over time. This is certainly true for Canada and the USA; the Australian and British situations are less clear in this regard.

2. Fund-Raising Strategies

Money needed to cover the expenses incurred by parties and candidates is provided by citizens, who pay in one way or another for their specific form of government. Political debate generally emphasizes a difference between private contributions and public subsidies as major sources of political funds. Nevertheless, ultimately it is always the citizens who pay to run a democracy, although they may be acting in different capacities – as party members, party supporters, members of an interest group, consumers of goods and services, or tax-payers.

The more traditional approach to potential sources of income for political parties looks to membership dues, contributions from office-holders, and individual or corporate donations. Rejecting these distinctions, Gidlund (1983) proposes a distinction between “grass-roots” and “plutocratic” financing. The main implication is to distinguish between democracy as a system of equal political participation by the multitude and plutocracy as a political system dominated by the riches of a wealthy minority. Funds from spoils – “graft” – plutocratic donations and grass-roots sources have to be treated separately from public subsidies to candidates, party organizations and parliamentary party groups (caucuses). Major differences between the countries discussed in this chapter (and in other regions) result in different approaches to public funding and publicity regarding political money. In North America, but not in Australia or the UK, public subsidies and tax benefits or matching funds provide incentives for candidates and parties to cooperate with systems for the public monitoring of political funding.

Of the four countries studied here only Canada operates a mechanism designed to reduce the influence of big donors, avoid dependence on public money and intensify fund-raising activities by parties and candidates. Since 1974 the number of individual contributors has risen because the tax credit incentive has stimulated small donations (Nassmacher 1994). Elsewhere fund-raising practice largely follows the spending pattern: The emphasis of party activity on running campaigns encourages party funding to follow the election cycle. In the USA stipulations of the FECA and decisions of the Supreme Court have distinguished between “hard money” – money directly given to a party, an issue or a candidate’s committees – and funds which are raised beyond the limits set by the FECA –

“soft money”. The domain of “soft money” was extended considerably when the Supreme Court, on various occasions, lifted the ban on certain contributions (see section 3.1 below).

2.1. Income from “Grass-Roots” Financing

This term includes all money provided in small amounts by the rank and file of identified party supporters. It can be divided into: (a) membership dues, i.e., the gross amount of income from regular subscriptions of party members; (b) voluntary donations from formal party members in excess of membership dues; and (c) contributions from other supporters (loyalists or the “faithful”), including those who contribute by means of direct mail, fund-raising events, auctions or lotteries. Party members have always been relatively unimportant for the income of political parties in all four countries. Parties in the Anglo-Saxon orbit traditionally do not have paid-up party members. (The Labour Party in the UK, the Australian Labor Party (ALP) and the Canadian New Democratic Party (NDP) are the exceptions) In using modern communications technology, however, US and Canadian parties have tried to bind supporters more closely to the party leadership.

Contributions by individuals are the most important source of income for US federal parties. Legally these contributions belong to the category of hard money, i.e., they go directly to a candidate’s campaign committee for use at its discretion. Thus FECA limits (see section 3.1 below) on the amount individuals can donate apply to such grass-roots funds. Donations from individuals accounted for almost two-thirds of the funds for Senate elections and over one-half for the House of Representatives elections in 1996 (Hrebear, Burbank and Benedict 1999). For presidential elections, donations by individuals are very important at the primary election, since they are matched by public funds up to a certain maximum (see section 2.4 below). However, once the parties have nominated a presidential candidate, she or he is no longer entitled to receive money from individual citizens.

The British Labour Party depends for just over 10 per cent of its annual income on the monthly subscriptions of individual members, but part of the donations is reported to come from annual donations by ca. 500.000 people. Money from subscriptions and small donations accounted for 40 per cent of the total income of the Labour Party in 1997. Although the membership

figures of the party have risen since 1992 to ca. 400.000 in 1997 (to decline thereafter), the increase in income is due to individual donations rather than to membership dues. The Liberal Democrats in the UK received over 40 per cent of its income from membership fees in 1997. For the Conservative Party no income from subscriptions is reported, but party headquarters receives less than 5 per cent of its income from the constituencies. In the UK party income at the local level is declining: In 1992 the average income of a constituency was ca. GBP 29.873 (Int'l \$ 52.000), and in 1997 ca. GBP 20.267 (Int'l \$ 31.000). This decline is due to a substantial fall in the local income of the Conservative Party, for which this source of income has always been relatively important. Total Conservative Party income per constituency declined from an average of GBP 44.304 (Int'l \$ 78.000) to an average of GBP 33.305 (Int'l \$ 51.000) during the period 1992–1997. Nevertheless it is still considerably higher than the average local income of either the Labour Party or the Liberal Democrats – GBP 8.912 (Int'l \$ 14.000) and GBP 6.199 (Int'l \$ 9.600), respectively, in 1997.

For Australian parties as “campaign machines”, total income from membership dues is fairly low. Because small donations do not appear in any form in reports to the Australian Electoral Commission (AEC) it is impossible to give details of grass-roots financing. Voluntary activity, however, is significant in Australia and is very unequally distributed. Whereas the ALP is able to call on party workers at the grass roots, the Liberal Party needs cash to pay for local campaigning.

Although most people in Canada pay no party membership dues, many citizens support parties and candidates financially. In 1990 more than 200.000 individuals contributed. In election years involvement is even higher. Almost 2 per cent of registered voters contributed to a federal party or candidate in 1984 and 1988 (Stanbury 1993:82–83). The importance of individual contributions has increased over the years. Initially it was the grass-roots organization of the NDP which attracted the highest number of contributions. By the late 1970s, however, the Progressive Conservative (PC) Party had begun to use structured mailing lists and electronically generated personalized letters from party leaders to contact citizens and ask for donations. This strategy carved out a new class of donors among young professionals and corporate business officials. Within three years direct mail

had more than tripled the number of contributors.

Over two decades (1977–1996) the PC experienced dramatic ups and downs in its political fortunes which severely affected its overall income. The share of individual contributions peaked in 1983 at almost two-thirds of the total income, but has since been relatively stable, at 50–60 per cent for non-election years and ca. 40 per cent for election years. The NDP depends on individual contributions for 70–80 per cent of its federal income in non-election years and ca. 60 per cent in election years. Corresponding figures for the Liberals are 40–50 per cent in non-election years and 25–35 per cent in election years. The Liberals' weakness in attracting money from larger numbers of contributors was compensated to some degree by bigger contributions.

One means of indirect public assistance to encourage grass-roots fund-raising is a tax benefit for political contributions to parties and/or candidates provided by public law. In **Australia** donations up to AUD 100 (Int'l \$ 67) by individuals are tax-exempt. In **Canada** federal and provincial tax credits for political donations and legal provisions for issuing tax receipts have supported efforts to solicit small donations from individual citizens and small businesses. The average annual contribution from individuals ranged from CAD 75 (Int'l \$ 160) in 1978 to CAD 190 (Int'l \$ 210) in 1988 (Stanbury 1993:84). “Big money in little sums” (Heard, 1960) for the Canadian parties has become a political reality thanks to an innovative combination of public regulation (tax credits) and organizational effort (direct mail). The federal tax credit is calculated as follows:

- 75 per cent of amounts contributed up to CAD 200 (Int'l \$ 160);
- 50 per cent of amounts contributed between CAD 200 (Int'l \$ 160) and CAD 550 (Int'l \$ 440); and
- 33,3 per cent of amounts exceeding CAD 550 (Int'l \$ 440) up to a total tax credit of CAD 500 (Int'l \$ 400).

The maximum tax credit of CAD 500 (Int'l \$ 400) will benefit donations totalling CAD 1.075 (Int'l \$ 870) per year. Once an individual candidate has been nominated his or her agent may issue receipts for tax credits. Registered parties may issue receipts continuously. The average amount of federal tax credit claimed is CAD 85 (Int'l \$ 68). In the 1980s the value of tax credits was equal to ca. 30 per cent of the total income of federal

parties and they accounted for more than two-thirds of the government's total contribution to parties and candidates (Nassmacher 1989).

The recommendation of the Neill Committee that personal donations to political parties below a certain level should be eligible for income tax relief (United Kingdom 1998:94–99) has not been adopted in the UK. The current Labour government has argued that such tax relief “would amount to general state aid by another route” and would be too expensive (United Kingdom 1999:33). Tax benefits previously available to US citizens were abolished as part of the Reagan tax cut package in 1986.

2.2. Income from Plutocratic Financing

For many parties, individual contributions from wealthy supporters and corporate donors have been a traditional source of funds. Contributions in kind, such as time, voluntary services, franking vouchers, cars, billboards, pickets, banners and so on, should also be mentioned, although their value cannot be adequately estimated.

The general term “contribution” applies to different types of donors. One donation may be a small amount given by an individual supporting a chosen party, a Political Action Committee (PAC) or a candidate. A second type of donation may be much larger, given by a corporation, an interest group or an institutional donor wanting to “buy” general access to politicians or to influence specific policies. The third, “voluntary”, type of donation may be given in exchange for political favours, such as public office, contracts or licences. This would of course be a clear example of bribery or fraud, but it cannot be excluded as an important source of income for any party in power. (This type of political income from “interested money” is also considered in detail in section 2.3 on fund-raising by graft.)

Difficult problems related to the idea of donating money for political purposes arise with institutional donations. Institutional donations are interested money seeking to influence party policies in favour of the donor's interest. If organized social interests (pressure groups) such as associations of trades or professions, business enterprises (corporations) or trade unions use money for such purposes, this is plutocratic rather than democratic. Businesses and trade unions are more likely than individuals to make large contributions since they have a direct interest in economic and political decisions and possess greater resources. Only a tiny

fraction of business enterprises – in Canada less than 3 per cent – make any political contribution. A recent example which requires careful scrutiny is the case of corporate PACs in the USA. Here the interested money is collected in small amounts, although finally these funds add up to big money.

Political financing in the UK is renowned for the importance of institutional donations by labour unions and business corporations. However, this general impression must now be adjusted somewhat. The Labour Party's dependence on the political levy of trade union members dropped from 66 per cent in 1992 to 35–40 per cent in 1996/97. In the mid-1980s the Conservative Party was still dependent on income from corporate sources, which at that time contributed ca. 50 per cent of the party's income. The accounts for 1996/97 indicate that this share had dropped to ca. 20 per cent. However, recently the reliance of Conservative Central Office on large donations has grown. This can only be explained by an increasing share of larger donations from individuals, although corporate donations of over GBP 5.000 (Int'l \$ 6.900) still outnumber individual donations to the party of a similar scale: they numbered ca. 200 and 150, respectively, in 1996/97. Of these big donations 119 were for amounts over GBP 50.000 (Int'l \$ 77.000). The Labour Party received 134 donations, including sponsorships, of GBP 5.000 (Int'l \$ 7.700) or more in 1997, and of these 21 were in excess of GBP 50.000 (Int'l \$ 77.000) (United Kingdom 1998).

Until 1999 the legal regime in the UK made a distinction between contributions to parties by the labour unions from political levies on union members (traditionally important for the Labour Party) and outright plutocratic financing. Contributions by labour unions can only be given with the full consent of the union members. Members are considered to approve of donations unless they take the positive step of “contracting out”. The Political Parties, Elections and Referendums Act 2000 introduced a similar regime applicable to corporate donations, which now require the consent of companies' shareholders.

Financial scandals caused by plutocratic financing were instrumental in promoting legal reforms during the early 1970s in the USA and Canada, and more recently in the UK. During the last years of the previous Conservative government, damaging – although unproven – allegations about the Conservative Party's funding practices received prominent coverage in the

press. Problems had arisen from the party's increasing reliance on anonymous contributions of GBP 1 million (Int'l \$ 1,6 m.) or more from a few wealthy backers. Recently Labour has also turned to the very rich for money. Within months of its landslide election victory in 1997, the incoming Labour government was accused of having received GBP 1 million (Int'l \$ 1,6 m.) in exchange for allowing cigarette advertising at Formula One motor-racing events in contravention of its anti-smoking policy. To clear itself of charges of impropriety, the party returned the GBP 1 million (Int'l \$ 1,6 m.). The scandal, however, acted as a spur to seeking proposals for reform from the Neill Committee and the new legislation of 2000.

In Australia party income from big donations is still effectively concealed from public scrutiny. Formerly donations had to be reported in the campaign reports, where they appeared in 1987, 1990 and 1993 as a one-line item called "gifts". Only in the 1984 report was there a complete list of all donors who had contributed more than AUD 1.000 (Int'l \$ 1.600), disclosing the name, amount and address of each donor. This detailed regulation was later abolished. The only evidence of big donations and donors is therefore to be found in the literature. Trade unions seem to support the Australian Labor Party, and it has been heavily dependent on union contributions for its campaign funds (Chaples 1989). Companies and business federations prefer to donate money to the Liberal and National parties.

Traditionally the Canadian parties depended for 75–90 per cent of their income on contributions from large corporations. For both the Liberals and the Conservatives the principal sources of funds were the business communities in Toronto and Montreal and the regional financial centres of Western Canada, and multinational corporations operating in the country (Paltiel 1970). As the costs of election campaigns increased a reform of party and campaign finance became inevitable. Since 1974 the situation has changed remarkably. Following the introduction of tax incentives (as mentioned in section 2.1 above), the share of individual donations has increased considerably and has reduced the potential influence of large contributions in Canada.

Today the importance of contributions from corporations and commercial organizations varies between the major parties. For the NDP and the Bloc Québécois such donations are of no importance, but between 1975 and 1997 corporations contributed

about half of all Liberal and PC income. Significantly greater amounts are contributed by corporations in election years as compared to non-election years. Corporate donations to the Reform Party (now the Canadian Alliance) range between 10 and 20 per cent of its total income. Canadian trade unions have traditionally supported the NDP's federal election campaigns with cash and donations in kind. It is notable that union contributions made in goods and services exceed their cash contributions. Between 1975 and 1997 trade unions on average provided 15 per cent of the party's revenues. However, their importance has declined as party spending on election campaigns has increased and union contributions have not risen correspondingly.

In 1988 the Liberal and PC parties as such received about twice as many large contributions as did their candidates. The benefit from contributions to parties is appreciably greater, particularly to parties in power. Contributions to candidates, however, can lead to more obvious financial dependence because a small number of large contributions can easily represent a preponderant share of a candidate's revenue. On average incumbents receive more in contributions than non-incumbent candidates, because incumbents have greater opportunities to cultivate links with potential contributors. Ministers often receive donations from firms that are related to their region or to their portfolio. In 1988 among incumbents, non-incumbents and ministers, ministers were the most dependent on large contributions, which accounted for more than 25 per cent of their total contributions (Padget 1991).

In the USA rules have been set up to reduce plutocratic financing by "big donors" or "fat cats". The FECA sets limits for contributions (see section 3.1 below) and explicitly prohibits certain individuals and organizations – namely, corporations, labour unions, federal government contractors and foreign nationals – from influencing federal elections. Foreign nationals, national banks and other federally chartered corporations are equally forbidden by the FECA to contribute in connection with state and local elections. Evidence exists, however, that rich donors often give more than USD 1.000 to a candidate by way of a "bundle" of individual contributions from themselves, their aunts, uncles, in-laws and children on the same day. This technique of bundling is also used by interest groups, offering a bundle of individual donations which they have collected to a candidate with the

implicit assumption that the interest group will receive credit for this (Hrebemar, Burbank and Benedict 1999).

In the USA there is an infinite variety of PACs, ranging, for example, from the Connecticut Bankers Association PAC, the Women's Pro-Israel National PAC and the Californian Cotton Growers Association Inc. PAC to the Sheet Metal Workers Local 100 PAC. Pacronyms, a list of acronyms, initial and common names of federal PACs on the Federal Election Commission (FEC) Internet site, provides an overview. The importance of donations by PACs is considerable. During the 1997–1998 election cycle more than 4.500 PACs raised USD 502,6 million (Int'l \$ 535 m.) and spent USD 470,8 million (Int'l \$ 501 m.), of which USD 206,8 million (Int'l \$ 220 m.) went to federal candidates. Incumbent candidates received most of this money (78 per cent in 1997–1998). Republican congressional candidates received more PAC contributions (USD 108 million (Int'l \$ 115 m.) in 1997–1998) than did their Democrat counterparts (USD 98,3 million (Int'l \$ 105 m.)). In 1998 candidates depended on PAC-generated funds for ca. 35 per cent of their income for elections to the House of Representatives and 18 per cent for Senate elections (Hrebemar, Burbank and Benedict 1999).

2.3. Income from Graft: The Spoils of Office

When parties want to earn income from their political activities, they may turn to different target groups. In the past political parties in Western democracies have successfully tapped various clienteles for donations given more or less voluntarily. The borderline with corruption has always been close and has sometimes been crossed in order to ensure the flow of party revenue from the spoils of office.

In earlier days the “macing” of public servants wanting to keep their jobs or to promote their careers for periodic campaign contributions to the party in power was common in the USA. Changes in civil service recruitment procedures have long since put an end to this practice, but it continues to flourish where patron–client relations are strong. In Puerto Rico between 1940 and 1957 a quota system was established whereby public employees were expected to contribute up to 2 per cent of their salaries to the governing party. The practice ended when public subsidies to parties were introduced.

Paltiel (1981) has identified other types of income from spoils (traditionally called “graft” in the USA).

“Toll-gating” is a system which requires holders of government permits and concessions to make regular contributions to the war chests of incumbent parties. “Kick-backs” or “slush funds” (called *ristournes* in Quebec or *tangenti* in Italy) refers to the payment of a percentage of the value of all government contracts made by the contractor to the governing party. Elected office gives a politician significant advantage to access kickbacks paid by public contractors and “toll-gating” – contributions in exchange for permits and licences. Variations of these schemes are probably the most traditional means of graft used by incumbents to reinforce their financial positions. Public inquiries and judicial prosecutions have time and again revealed details of these processes in different jurisdictions. However, with respect to kickbacks or toll-gating no major scandals have been reported recently. Nothing has indicated that they have been significant sources of political income in the Anglo-Saxon orbit. (The “cash for questions” affair in the UK, when MPs were accused of having asked questions in parliament in exchange for money from enterprises, is not a case in point because the money did not end up in party coffers. This was a case of individual “sleaze” rather than graft.)

2.4. Income from Public Subsidies

As almost everywhere in the Western world, the importance of public funding has increased in the Anglo-Saxon orbit. Only the UK has been reluctant to provide any public subsidy apart from subsidies in kind for candidate campaigns and free election broadcasts. The Political Parties, Elections and Referendums Act 2000, however, introduced a modest fund to finance policy research by the parties. Although the Neill Committee argued against a system of direct public funding for political parties, it recognized that parties are driven to concentrate their resources on campaigning and routine expenditures at the expense of long-term policy development. It therefore proposed a Policy Development Fund (United Kingdom 1998:88–93). The government now spends GBP 2 million (Int'l \$ 2,7 m.) per annum to be divided between registered political parties on the basis of a scheme set up by the new Electoral Commission (see section 3.4 below).

The rising costs of politics have stimulated the introduction of party subsidies in Australia, Canada and the USA. Direct public subsidies, however, are closely linked to campaign expenses. (Details of national

regulations have been summarized by Paltiel 1981:154–159, table 7-1 and Nassmacher 1993: 241–243, table 10.1.) While details vary depending on national peculiarities, the general principle seems to be that a clearly defined proportion of reported and receipted campaign expenses actually incurred by candidates and/or parties is reimbursed from public funds.

In Australia the amount of public funding is easily calculated. For every first-preference vote under the compulsory voting system a party receives a certain amount of money – currently AUD 1,70 (Int'l \$ 1,1) per voter. In a half-year cycle these amounts are adjusted for inflation. Between 1984 and 1993 the dominant change was a moderate adjustment of public subsidies to inflation, but in 1996 the Australian parties raised the level of subsidization dramatically: Subsidies for Senate votes were tripled and 50 per cent was added for House of Representatives votes. Total public subsidies more than doubled, from AUD 14,9 million (Int'l \$ 11 m.) to 32,2 million (Int'l \$ 22 m.). A party qualifies for entitlement if it receives at least 4 per cent of all first-preference votes cast. Between 1984 and 1996 the four major parties (Labor, the Liberals, the National Party and the Australian Democrats) received 97–99 per cent of the total amount of public funding. In 1998 that percentage dropped to 89 per cent when Pauline Hanson's One Nation Party received AUD 3,044 million (Int'l \$ 2,3 m.), or 9 per cent of the total subsidy. The total amount of the public subsidy paid to political parties increased from AUD 7,8 million (Int'l \$ 11 m.) in 1984 to AUD 33,8 million (Int'l \$ 26 m.) in 1998.

In Canada public funding was introduced in 1974 as a means of covering part of the “documented” campaign expenditure, while the rest has to be funded by private donations. Since 1983 a registered political party has been entitled to a reimbursement of 22,5 per cent of declared election expenses, provided that it obtained at least 2 per cent of the number of valid votes cast at the election or 5 per cent of the number of valid votes cast in the electoral districts in which the party endorsed a candidate. The reimbursements received by parties other than the major ones (three up to 1988, five since 1993) have been insignificant. Since 1983 constituency candidates have been entitled to a reimbursement of 50 per cent of their election expenses up to a maximum of 50 per cent of the spending limit (see section 3.1 below) if the candidate obtained at least

15 per cent of the valid votes cast. About half of all candidates and roughly two-thirds of the major parties' candidates qualify for reimbursement. In 1988 a total of 739 candidates (47 per cent of 1,574), in 1993 a total of 714 candidates (33 per cent of 2,155) and in 1997 a total of 801 candidates (48 per cent of 1,672) were reimbursed. For candidates of the major parties (of which there were three in 1988, and five in 1993 and 1997) the share is considerably higher: 82 per cent in 1988, 61 per cent in 1993 and 66 per cent in 1997.² Because most candidates end up with a surplus, reimbursements have reduced reliance on a few major sources of funding and have probably eradicated the risk that, out of financial necessity, candidates will depend on large donors.

At the federal level in the USA, public funding started in 1971 when Congress introduced the income tax “check-off” by which individual American citizens can indicate on their income tax returns that USD 3 (Int'l \$ 13) of their tax goes to the Presidential Election Campaign Fund. About 20 per cent of US taxpayers participate in this system of tax check-offs. The money thus collected is distributed under three programmes:

- *Primary matching payments.* The first USD 250 of a donation by any individual is matchable, i.e., the amount of a donation is doubled. Donations by PACs are not matchable. Candidates in presidential primaries who wish to receive public funding, as most of them do, must agree to abide by spending limits, to keep records, and to submit those records for audit. In 1996 pre-convention matching funds totalled USD 58.538.356,15 (Int'l \$ 64 m.). To be eligible for money from the matching fund programme a presidential candidate must demonstrate broadly-based support by raising more than USD 5.000 in matchable contributions, in amounts no higher than USD 250 from any individual contributor, in 20 different states.
- *Party convention grants.* Each major party is entitled to receive a grant for its national convention which nominates the candidates for president and vice-president. This was USD 12,36 million (Int'l \$ 13,6 m.) each in 1996.
- *General election grants.* Both the Republican and the Democratic candidate in a presidential election receive a grant to cover all the expenses of their general election campaigns. In 1996 the grant was USD 61,82 million (Int'l \$ 67,9 m.). Third-party

presidential candidates are entitled to receive some public funds after the general election if they have won at least 5 per cent of the popular vote. Nominees who receive funds are not allowed to raise private contributions from individuals, PACs or party committees. This means that candidates raise these kinds of donations during the pre-nomination campaigns, but refrain from doing so once nominated.

Even with the Political Parties, Elections and Referendums Act 2000, the approach of the UK is completely different. Even including the new policy development grant of GBP 2 million (Int'l \$ 2,7 m.) per annum, public funding of political parties is rather modest. Most of the public subsidy is limited to activities related to campaigning or to opposition in parliament. With respect to campaigning, air time is given to parties free of charge (see section 1.3 above), and free postage and free meeting rooms are guaranteed to candidates. Recently there has been a new tendency for MPs to use public funding for office expenses, partly to pay for services from their constituency party offices. Since 1975 opposition parties in the House of Commons have received an annual flat grant to help them carry out their parliamentary duties more effectively. In 1998, the rate was GBP 3.841 (Int'l \$ 5.700) per seat and GBP 7,67 (Int'l \$ 11) per 200 votes, totalling GBP 1,7 million (Int'l \$ 2,5 m.) for all opposition parties. Responding to a proposal by the Neill Committee, the Labour government agreed to increase the amount to GBP 4,9 million (Int'l \$ 7,3 m.) for all opposition parties in 1999–2000. During the 1990s other funds have been added to this “short money”: a specific allocation for the office of the Leader of the Opposition, a travel fund for opposition front-benchers and subsidies to parties in the House of Lords. The three together now total ca. GBP 900.000 (Int'l \$ 1,2 m.) per year.

3. Public Monitoring of Political Finance

Western democracies open up various channels of political action for groups of citizens: the poorer strata essentially employ only their votes, the richer strata also use their wealth. With respect to political finance, concepts such as transparency, control and equal opportunities for parties and citizens have repeatedly attracted the attention of reformers. Supervision of the flow of political funds can be achieved by administrative

regulation or by political competition. The general aim of financial accountability is to encourage parties and candidates to raise and spend their funds in ways that do not provoke controversy among the electorate. Disclosure of the names of donors and reporting on political funds should provide the necessary information.

In the UK, North America and Australia public regulation of political finance has put the emphasis on limiting campaign expenses. In the USA the emphasis has been on limiting individual contributions. Campaign finance laws limit the amount a candidate and/or a party may spend on the campaign, and in the USA the amount a donor may contribute towards the candidate of her or his choice. Disclosure of the donors' identities and of the amount of individual donations (not in Australia) is supposed to help control the flow of private money into campaign coffers.

As the UK rightly claims to have the “mother of parliaments”, it also produced the “mother of political finance regulation”. Since then many countries, notably those in the Anglo-Saxon orbit (i.e., Australia, Canada and the USA) have surpassed the original example in the scope, detail and comprehensiveness of their legislation in this field. With the 2000 act, the UK caught up with that progress. While the Australian rules are closest to traditional British practice, Canada has improved on the British tradition, advancing from spending limits for constituency candidates to a complex set of rules which includes political parties, public funding, transparency provisions and an enforcement agency. The UK has followed suit recently, although with much difference in detail. The political finance regime in the USA is based on strict controls of political money which include disclosure and reporting provisions as well as limits and bans.

3.1. Limits and Bans

Public regulation of political finance has often aimed at limiting expenses or contributions. A legal maximum for expenses incurred by candidates or parties during a defined campaign period is a frequent element of political finance regimes. Such spending limits can apply to the campaigns of constituency candidates (e.g., in Britain since 1883), nationwide party campaigns (e.g., in Canada since 1974) or presidential campaigns (e.g., in the USA since 1974). In order to control the flow of interested money into party coffers many countries have established statutory ceilings for political

donations (contribution limits) by individuals, corporations and/or organizations.

Bans on anonymous donations, restrictions on foreign contributions and bans on corporate donations supplement those political finance regimes and are intended to discourage kickbacks and toll-gating, foreign influence and plutocratic dominance in the political process. Quite often strictly-worded legal bans or limits have diverted human creativity into the search for loopholes or strategies to circumvent the law. Despite repeated experience with various attempts to apply or enforce these laws, the propensity to legislate for bans and limits, quite often for purely symbolic reasons, remains unrestrained.

The USA is the most striking case. Foreign nationals are explicitly prohibited by the FECA from making contributions directly or indirectly in connection with any US election, federal, state or local. Foreign-owned corporations, however, are allowed to establish “separate segregated funds” on condition that foreign nationals do not take part in the decisions regarding the activities of this PAC and that its funds do not come from the foreign owner. Loopholes in bans and limits are a major problem. A recent criminal investigation into foreign contributions illustrates the difficulties with this prohibition. When the story broke many of those implicated fled the country, thus evading legal action. The extreme complexity of the financial transactions made it difficult for the source and the intended purpose of some of the funds to be established in a timely fashion.

The general goal of US law has always been to reduce the influence of wealthy donors on politics by capping the amount of money that is donated to or in favour of a candidate or their campaign committee. Money spent by individuals or groups to promote a particular candidate or attack another was considered to be a donation to a candidate, and hence subject to the limits set by the FECA. The limits on contributions from individuals and from PACs differ, starting with the USD 1.000 per election which an individual may give to a candidate or candidate committee. Contribution limits for a political party’s national committee per calendar year are considerably higher: USD 15.000–20.000. It is, however, important to note that the contribution limits have not been adjusted for inflation since they were established in 1974. Today they are worth less than half (in purchasing power) what they were then.

In 1976 the Supreme Court (*Buckley v. Valeo*) held that individuals and groups other than candidates and parties can spend as much money as they want. This verdict tried to combine the main objective of the FECA – to prevent large contributions having a coercive influence on political decision making – with the freedom of speech protected under the First Amendment. Giving money to campaigns was considered to be a form of speech, and the main goal of the FECA was upheld by allowing it to cap the amounts spent to advocate the election or the defeat of a specific candidate.

In 1996 (*Colorado Republican Federal Campaign Committee v. Federal Election Commission*) the Supreme Court ruled that political parties are also free to spend as much as they want to as long as the party does not coordinate its efforts with the candidate. Since then the rule has been that party committees may make unlimited “independent expenditures” (sometimes called “soft money”) in connection with federal elections. “Independent expenditure” describes a communication which (not explicitly) “advocates the election or defeat of a clearly identified candidate and which is made independently from the candidate’s campaign. To be considered independent, the communication may not be made with the co-operation or the consent of the candidate or his or her campaign; nor may it be made upon a request or suggestion of either the candidate or the campaign”.

As far as domestic sources of political funds are concerned, the most liberal view of the issue is prevalent in the three other countries. No legal limits exist in Australia, the UK or Canada to the amount of political contributions by individuals or corporations which may be given to a party or a candidate.

Campaign spending in the UK is subject to legal constraints, initially limited to the constituency level, which have their origin in the Corrupt and Illegal Practices (Prevention) Act of 1883. This statute introduced strict limits on the amount of money that could be spent on an electoral campaign in a constituency in order to prevent wealthy candidates from buying votes. At that time general elections were fought mainly at the constituency level. The Representation of the People Act of 1989 still reflects this origin: Constraints are mostly directed at local spending even though campaigns have become “nationalized” during the twentieth century. In 1997 candidates in county constituencies were allowed to

spend GBP 4.965 (Int'l \$ 7.700) plus 4,2 pence per elector. Lower amounts apply in urban constituencies, higher limits for by-elections. The main national-level restriction has been the ban on paid political broadcasting (television and radio). Restrictions on spending by central party organizations were enacted in 2000. Campaign expenditures of national party organizations (and issue advocacy groups, legally called "third parties") are now limited, too. The new concept of "national campaign expenditure limits" will also cover donations in kind – staff, equipment, advertising and campaigning – received by the Labour Party from labour unions. The legal maximum varies with the type of election. The limit for Westminster elections is GBP 19,77 million (Int'l \$ 27 m.) for the entire UK. When different elections are held within the same period, maximum limits are set for each combination of elections (United Kingdom 2000).

Experience in Australia has shown that limiting national party expenditure does not work. In the 1970s a broader discussion on the impact of the 1902 expenditure limits for candidates started. In the end these limits were abolished because this mechanism was not considered to work effectively under the circumstances of modern party democracy.

In Canada the amount a registered political party or a candidate may spend during a campaign period is limited. Each party is allowed to spend up to 30 cents per name on the preliminary list of voters for each electoral district in which the party is sponsoring a candidate. Similarly, the spending limit for constituency candidates is based on the number of electors in the electoral district: CAD 1 (Int'l \$ 0,80) for each of the first 15.000 names, plus 50 cents for each of the next 10.000, plus 25 cents for each elector in excess of 25.000. Both limits are indexed to the consumer price index (CPI) using 1980 as the base year (Elections Canada Internet site). For the general election in 1997, any party that ran a candidate in all 301 electoral districts was permitted to spend CAD 11.358.749 (Int'l \$ 10 m.). The average constituency limit then was ca. CAD 62.600 (Int'l \$ 55.000). A person or group other than a candidate, a political party or one of its local associations (called a "third party" in law) must register with the Chief Electoral Officer (CEO) after spending CAD 500 (Int'l \$ 400) on election advertising and is subject to a national spending limit of CAD 150.000 (Int'l \$ 120.000), of which no more than CAD 3.000 (Int'l \$ 2.400) may be spent in any one constituency.

Since no public subsidy exists for congressional elections in the USA (see section 2.4), these elections are not subject to any spending limits. Senate and House candidates are free to spend as much money as they want. The *Buckley v. Valeo* decision of the Supreme Court declared limits on congressional campaign spending to be unconstitutional. Only spending limits for presidential candidates who voluntarily accept public funding were upheld by the court. Presidential candidates are free to spend as much as they want if they do not wish to receive public funding. Recently an increasing number of candidates have been willing to forgo public funding, and consequently rely to a large extent on personal wealth to run a primary campaign. For these "entrepreneurial candidates" no spending limits apply.

Only candidates in presidential primaries who receive matching funds (see section 2.4) must comply with spending limits. These include overall spending limits and limits for spending in each state. The latter are geared to the voting age population of that state. The limits are adjusted for inflation in each presidential election year. In 1996 the overall spending limit was USD 30,91 million (Int'l \$ 33,9 m.) for each candidate. In addition candidates may spend up to 20 per cent of the national spending limit for fund-raising activities. Presidential nominees cannot spend more than the amount of the General Election Grant. Additional spending of up to USD 50.000 from their own personal funds does not count against the expenditure limit.

There are no limits for so-called independent expenditures – expenditures for a communication which advocates (even if not explicitly) the election or defeat of a clearly identified candidate but which is made independently from the candidate's campaign. Each item of independent expenditure, however, must include a public notice that identifies the name of the person or the committee that paid for the expenditure, and it must state that the communication was made independently of the candidate and their authorized committee, for example, "paid for by the XYZ PAC and not authorized by any candidate or candidate's committee".

3.2. Disclosure of Donors' Identities

In North America donors are at the core of political finance supervision. Disclosure of the donor's identity and the amount of the individual donation is meant to monitor the flow of private money into campaign

coffers. For a disclosure policy to be effective the information disclosed should be accurate, publicly available, understandable to potential users and timely. Negative publicity for large donations is expected to discourage donors as well as politicians. The puritan expectation of US law-makers seems quite simple: If all financial leverage can be made a subject of public debate, politics will be “cleaned up”. Public subsidies and matching funds (in the USA: see section 2.4) or tax benefits (in Canada: see section 2.1) provide incentives for candidates and parties to cooperate with such public policy programmes.

More than two decades of political practice in North America and Australia have emphasized again the general paradox of constitutional reform measures. Implementation of reform breeds the need for more and more complex reform legislation. Elaborate restrictions designed to control the flow of money into the political process have encouraged professional politicians to engage in a creative search for potential loopholes either in the application of the existing law or when drafting necessary amendments. The public and its main agent in democracies, the media, take at best an interest in the introduction of reform measures, none in their routine application, and hardly any in later amending processes.

Disclosure is at the heart of public supervision of political finance in the **USA**. The FECA requires candidate committees, party committees and other PACs to file periodic reports disclosing the sources of their funds. Candidates must identify, for example, all PACs and party committees which gave them a contribution. All committees must identify individuals who gave to them more than USD 200 in one year. They must be able to demonstrate that they have made their “best efforts” to disclose the name, mailing address, occupation and employer of each individual contributor. With respect to independent expenditures the FECA requires persons (and parties since 1991) making such independent expenditures (soft money) to disclose the sources of the funds they used, although there are no limits on independent expenditures.

In **Canada** the source and amount of contributions over CAD 200 (Int'l \$ 160) have to be disclosed. Individuals will be mentioned by name and the amount donated stated. Privacy concerns, however, mean that the address, employer and occupation of the donor and even the date of the donation are not included in the information disclosed on contributions. Full disclosure would place an administrative burden on the parties

without really improving openness and accountability (Young 1991). Under Canadian disclosure provisions it is possible for as long as 18 months to pass between the time a contribution is made and when it is reported. By this time the information is of little use. Since current disclosure provisions cover only party and candidate financing there is no legal requirement for leadership campaigns. A donor can successfully avoid disclosure requirements and even enjoy the political tax credit by giving large sums of money to a leadership campaign.

While the broad pattern of the **Australian** political finance regime has been fairly stable, details in this particular area are still in flux: Disclosure obligations have been changed quite often. Presumably because companies and corporate federations prefer to donate money to the Liberal and National parties, these parties strongly oppose disclosure obligations and have even stated that they would use every legal loophole to conceal the identity of their donors. Until 1996 donors contributing at least AUD 200 (Int'l \$ 150) to candidates or Senate groups and AUD 1.000 (Int'l \$ 770) to parties had to be disclosed to the Australian Electoral Commission (AEC). This was amended in 1996 when, under an ALP government, there was a retreat towards less transparency. At present each party's agent is required to give detailed information in their annual report of transactions of an aggregate of AUD 500 (Int'l \$ 330) or more with persons or organizations. For those over AUD 1.500 (Int'l \$ 1.000), names and addresses must be supplied. Non-monetary donations (subsidies in kind by private donors), such as loans of company cars or business jets, must also be included, with a market price equivalent.

Rules on the transparency of donations to parties are quite new in the **UK**. Traditionally donations to British parties have not been made public for all kinds of reasons, in particular the protection of privacy. Recently, however, there has been a development towards greater transparency. Since 1995 the Labour Party has revealed, albeit after some delay, the names of donors and sponsors who have contributed more than GBP 5.000 (Int'l \$ 6.900) in one year, without mentioning the exact amount received. Since the general election of 1997 the Conservative Party has done the same. These developments coincided with a public debate calling for more transparency with respect to larger donations to political parties. This followed press allegations concerning donations from overseas sources in the case of the Conservative Party and from

Formula One motor racing in the case of the Labour Party. Following suggestions by the Neill Committee, the new act stipulates that parties publish both the names of donors and the exact amounts of their donations when they amount to GBP 5,000 (Int'l \$ 6,900) or more annually, or GBP 1,000 (Int'l \$ 1,400) at the constituency level. In future such contributions must be reported quarterly to the newly created Electoral Commission (see section 3.4) in periods between elections, and within seven days during a campaign period. Anonymous donations of GBP 50 (Int'l \$ 69) or more should be refused.

3.3. Reporting of Political Funds

All regulation based on transparency assumes that public availability of data leads to publicity about political finance in competitive news media. Publicity through the media is a necessary but not always sufficient condition for public debate. Some scandalous revelations can be expected to induce different behaviour on the part of a considerable number of voters, and the anticipation of such revelations should improve the self-control mechanisms that are built into all parties and campaign organizations by the rules of political competition. This procedure has to have gone through all the steps mentioned in order to be effective, and could be completely jeopardized at any stage. It therefore seems reasonable to insist on the systematic enforcement of political finance regulations.

As no rules concerning transparency of political funds existed in the UK until 2000, reporting was done on a voluntary basis (see section 3.2 above). Under the new law, audited annual accounts of parties' income and expenditures will have to be delivered to the Electoral Commission within six months of each year's end.

The Australian, British and Canadian legislation on political finance regimes leaves the reporting of all financial transactions by local party chapters to their own discretion.

In Australia between 1984 and 1996 parties and candidates had to file campaign reports listing expenses for broadcasting advertisements, publishing advertisements, displaying advertisements, campaign material, direct mailing and opinion polling. Furthermore, issue advocacy groups had to report on donations and activities. Broadcasters had to report on income from party advertisements. Since 1996 campaign reports are no longer required. Parties, candidates and donors have to file annual reports,

which were already introduced in 1992. The parties must disclose totals of their receipts, payments and debts. The annual reports, covering the period from 1 July to 30 June, must be lodged with the AEC by 20 October. Although they are not published they become available for public inspection at the AEC offices from 1 February of each year. Because legislation is intended primarily to empower the AEC, reports give some clues to the control of financial transactions by political parties. Instead of informing a broader public, the AEC works to prevent abuse as it investigates and reveals cases of improper dealing with financial restrictions.

Compared to other countries with a Westminster-style parliamentary system, reporting provisions in Canada are fairly rigorous. The Canada Elections Act of 1974 stipulates that political parties must be legally registered and responsible for their financial transactions. In order to register parties must have a leader, an agent, a bank account, a headquarters, proper records and an auditor. The two key criteria for registration, however, are that a party must either have had 12 members in the House of Commons when parliament was dissolved or nominate 50 candidates for the election. A registered party that fails to meet either one of these requirements is de-registered. The chief agent of a registered party has to transmit to the Chief Electoral Officer (CEO) an annual return of the party's receipts and expenses (other than election expenses) within six months of the end of the fiscal (i.e., calendar) year. In addition, within six months from the date of a general election the chief agent must file a return of the election expenses incurred by the party. The financial agent of a registered "third party" (see section 4.1 below) has to report to the CEO within four months of polling day on contributions and expenses for a period which begins six months before issue of the writs and ends on the day of the election.

Local party associations, however, are not included in these reports, except for tax-receipted donations which have been channelled through party headquarters. Although local (constituency) party associations benefit from public funds through the transfer of candidates' surpluses after elections, they are not required to report their funds. This gap is likely to remain (see section 4.4 below). The official agent of every candidate at an election is, however, required to transmit to the returning officer an audited financial report of election expenses no later than four months from the date of the election. All reports must give the aggregate amount of

money and the commercial value of goods and services provided for the use of a party or a candidate. In addition to disclosure (see section 3.2), information on contributions is to be arranged by categories of donors. The report on party expenses is required to comprise detailed amounts of the party's operating expenses and the total amount spent by or on behalf of the party during the fiscal period. For candidates the report must include election expenses, the candidate's personal expenses, and disputed and unpaid claims. The CEO must publish summaries of all the returns; returning officers make returns available for public inspection.

Reporting duties are much stricter in the USA. All candidate committees, party committees and other PACs are obliged by the FECA to file periodic reports on the money they raise and spend. In addition, candidates or candidate committees must report all expenditures exceeding USD 200 per year to any individual or vendor. Persons and parties undertaking independent expenditure (soft money) have to report the amounts of their expenses, even though there are no limits on independent expenditures. All reports filed are open for public scrutiny at the FEC, a public agency. Could this mean that too much information is available on US political finance in too much detail?

The FEC has actively pursued failures in reporting. In 2000 Congress authorized it to establish a system of administrative fines for straightforward reporting violations. Under this new regime many reporting violations are processed in a manner akin to speeding offences, where a prescribed fine is levied depending on the circumstances.

3.4. Enforcement

As political money has become an issue of public policy, some political systems have created agents for the public interest. The first of these appeared in North America before 1975 – the Federal Election Commission (FEC) in the USA and special divisions of most CEOs in Canada. Australia followed suit in 1983 and the UK established an Electoral Commission in 2001. The absence of such an agency, according to Paltiel (1976:108–109), might be a serious failing:

A system of public financing, full disclosure and an enforcing agency backed by legal sanctions are essential to the success of a reform program for party finance. Disclosure requires systematic reporting, auditing, public access to records and publicity.

Enforcement demands a strong authority endowed with sufficient legal powers to supervise, verify, investigate and if necessary institute legal proceedings. Anything less is a formula for failure.

The emphasis in this section is therefore on the initiation of investigations and prosecutions. Has a country experienced specific scandals concerning “money in politics”? Did the violation of an existing law come up in the course of a scandal? Did civil or criminal prosecutions follow? Who initiated them? Were court sentences or sanctions imposed against minor or major suspects? Was there any impact on the further career of politicians involved in the scandal?

In Australia the rules work quite simply. They may not create transparency in the field of plutocratic financing, but “rough” legislation seems to give security against abuse (for example, macing). In particular, the AEC as an independent national authority has had a positive impact. The members of the commission are: (a) the chairperson, who must be a judge or former judge of the Federal Court; (b) the Electoral Commissioner, as the Chief Executive Officer; and (c) a part-time, non-judicial member, who so far has always been the Australian Statistician. Although the AEC may not be able to inquire into financial resources, it is allowed to check the financial practices of Australian political parties and is therefore able to detect cases of abuse. After some parties, especially the Liberal and National parties, refused to cooperate and the Attorney General stated that registered parties were not required to comply under the 1984 legislation, this loophole was closed in 1991 when the AEC's right to information on parties' financial activities was introduced. Since then the AEC has been allowed to investigate party reports at hearings and other means of inquiry. It is involved in reforming the legislation on political finance and has made several proposals, including some on disclosure obligations, which have been adopted by parliament.

As the proper authority for election administration and political finance issues, the AEC acts forcefully only when the transparency of the process is deliberately compromised. The highest-profile case to date, involving a AUD 4,7 million (Int'l \$ rate n/a) donation, did not lead to a sanction but did open the door for further clarification of the legislation concerning associated entities and the AEC's own powers. The agency has developed a three-year audit cycle to cover all state branches of all registered parties; this serves as

an early warning system on malpractice. This capacity is somewhat weakened by its limited human resources. The enforcement division controls probably slightly less than 10 per cent of the total budget of the AEC.

The Canada Elections Act of 1974 (see the Elections Canada Internet site) set up a supervisory mechanism with appropriate sanctions to enforce the political finance regime and to verify and publish all required financial reports. An independent authority, the CEO, is charged with additional duties, e.g., to follow alleged violations of the law and to impose sanctions if necessary. As the Canada Elections Act can only be enforced through the criminal courts, not the civil courts, offences are resolved with preventive and remedial rather than punitive measures. Offences are subject to a moderate fine or a few months' imprisonment. Illegal and corrupt practices can be punished by a ban preventing a person from contesting elections to or taking a seat in the House of Commons, or holding any office of the Crown or of the Governor in Council. Political finance regulation, however, offers incentives for parties and candidates. Since they benefit from tax credits and reimbursements, observance of the law is in their own best interest. Although "quasievasions" (related to the legal definition of election expenses; see section 3.1) occur, outright violations of the law are very rare. Canadian political finance is modest in scale and unlikely to engender great interest among academics or journalists. Media coverage is infrequent and tends to be superficial in nature.³

As a consequence of the FECA of 1971, the FEC was set up in the USA. It is an independent regulatory agency charged with administering and enforcing the FECA. It has six voting members who are appointed for six-year terms by the president with the advice and consent of the US Senate. The commissioners elect two members each year to serve as chairman and vice-chairman. A major task of the FEC is to guarantee public disclosure of funds raised and spent on federal elections. The FEC has a budget of USD 38.278.000 and, in 2000, a total of 352 personnel. It has exclusive jurisdiction over the civil enforcement of the FECA. If there is "reason to believe" that a violation has occurred, a vote by the majority of the members of the commission can order an investigation. If this leads to the determination of a "probable belief", the majority of the FEC members has once again to confirm this. Thereafter the agency will seek to resolve the matter

through "informal methods of conference, conciliation and persuasion" and reach a conciliatory agreement with the respondents. If a violation of the law has taken place, the FEC tries to resolve the matter by reaching a conciliation agreement with the respondents. The agreement may require them to pay a civil penalty and/or to take other remedial steps. If an agreement cannot be reached, the FEC may file a suit against the appropriate persons in a district court. The penalties in this case are more severe: imprisonment for up to five years for criminal misuse is possible. Because this procedure is partly open and the process is burdensome and time-consuming, some see the FEC as a weak watchdog. As agents are responsible for the funds, the candidates and representatives themselves are shielded, which is a problem. Enforcement matters remain confidential until they are concluded; once the matter is closed, the pertinent documents are placed on the public record.⁴

In the UK the legal limits on campaign spending at the constituency level are generally accepted but hardly checked. At by-elections especially the limits are sometimes exceeded, but in general parties refrain from making complaints about overspending by a competing party in order to receive reciprocal treatment from their opponents when they themselves overspend. At the 1997 election suspicions of considerable evasion were voiced. Still, 1999 saw the first major post-war legal case against a sitting MP and her election agent (*Crown v. Jones and Whicher*). Although both were initially found guilty of spending twice the constituency campaign limit, the decision was reversed on appeal.

Currently it is up to a defeated candidate to bring a legal case against the winner. Under the act of 2000, the independent Electoral Commission, consisting of six part-time commissioners, has been installed. It oversees compliance with the new requirements, especially in the monitoring of donations, reporting on them and the submission of proper accounts. It does not have any judicial power but it can make recommendations and reports, on the basis of which the Director of Public Prosecutions may decide to ask a court to apply criminal sanctions (fines or imprisonment) against those responsible within the parties.

4. Conclusion

American and Australian political parties are relatively weak organizations. In the USA the use of primaries for

nominating procedures has helped to stress the importance of individual campaigns. Political finance, therefore, is concentrated on campaigns rather than on political parties. The Australian attempt to control the high level of media expenses by introducing public funding seems to have failed. Public funding and media expenses both continue to grow and the three-year parliamentary term contributes to both increases.

Despite such important differences the established democracies of the Anglo-Saxon orbit have much in common.

4.1. The Impact of Federalism

From the beginning the dominions of Australia and Canada combined the British tradition of responsible government (adversary politics and majority rule in a parliamentary democracy) with a US innovation, the federal system. Only the USA operates under a presidential system with strict separation of legislative and executive powers, and a federal system at that. The federal structure of political systems largely determines the financing of politics in two respects.

First, jurisdiction over political finance regulation in Australia, Canada and the USA rests with the federation as well as with each of the states/provinces. In all three federal systems separate political finance regimes operate at the state level: the federation, provinces and states have used their own jurisdiction to legislate on the subject. In the USA even cities and counties can establish their own rules. This may result in a situation where a political committee or party which supports candidates at the federal, the state and the local level will be confronted with three different sets of rules on political finance (Alexander 1992).

In Australia any party faces two different sets of rules for federal and for state politics. The Australian Capital Territory, New South Wales, Queensland, Tasmania and Western Australia have implemented their own disclosure legislation, while South Australia, Victoria and Northern Territory do not have any legislation on this topic.

The overall situation in Canada is a little less complicated because rules applicable in the ten provinces fall into four broad categories: (a) four provinces are much stricter than the federation in that they additionally limit the size of contributions and demand reporting by constituency associations; (b) two provinces are slightly stricter in that they include local party groups; (c) three provinces are similar to the

federation, which emphasizes rules for expenditure and neglects local organizations; and (d) only Alberta is closer to the US approach, which emphasizes limits on political income.

Second, the major role of supreme courts in federations has had an enormous impact on political finance regime in the USA, Canada and Australia. By declaring important parts of the legislation unconstitutional on several occasions, the US Supreme Court has widened the opportunities to give and spend money for federal elections. Freedom of speech, as protected by the First Amendment, plays a major role in all attempts to regulate political finance in the USA. On the basis of concern for free speech, courts in Alberta (Canada) have ruled against restrictions on "third party advertising" (which, however, have recently been upheld by the Supreme Court of Canada). Neither in the USA nor in Canada or Australia have the supreme courts put much emphasis on the principle of "equal access", that is, the equality of opportunities for individual citizens as well as political parties or candidates. (Major court cases on "campaign funding" are accessible at www.uscplus.com for US Supreme Court decisions and at www.elections.ca – Major Court Cases – for Canada.)

4.2. Levels of Public Involvement

Other important findings relate to the level of public subsidization of parties and candidates and the degree or scope of political finance regulation – bans, limits, disclosure or reporting. While the USA combines a low level of subsidy with a high degree of regulation, Australia and the UK (even after implementation of the act of 2000) present a low profile on both counts. Within the Anglo-Saxon orbit only Canada represents a medium level of public subsidies, direct and indirect, and regulation. The Canadian model seems potentially transferable to other countries. The other, more extreme cases – the high–low combination of the USA or the low–low combinations of Australia and the UK – should be a warning to emerging democracies.

British political finance has been a subject of public debate since the early nineteenth century. The advent of mass democracy with general suffrage in a majoritarian electoral system resulted in a party system dominated by two major parties. In the early days plutocratic financing in the strict sense was predominant. The Trade Union Act of 1913 allowed political levies to be collected from union members and

helped to install the Labour Party as one of the two major political forces. During the twentieth century a shift away from elections fought at the constituency level to highly centralized national election campaigns has taken place. Nowadays, most money is spent by the national party organizations. The British political finance regime has only now started to address these changes. Canadian regulation elaborated the British tradition of legal prevention of “corrupt and illegal practices” in the electoral process much earlier, with new initiatives which aim at controlling corporate donations and campaigns via the electronic media.

4.3. Participation through Parties?

Two further remarks are called for on the type of political parties apparently developing as a possible consequence of the introduction of public subsidies to parties.

First, parties with low citizen involvement may become instruments of wealthy groups or individuals. The rise of PACs and the growing importance of soft money in the USA are cases in point. Where public funding is given directly to candidates rather than to their parties, for example, to presidential candidates in the USA, this may further weaken the already weak position of political parties, although direct-mail fundraising and organization-building by national party headquarters offer counterbalancing influences. The introduction of contribution and spending limits has bolstered PACs at the parties’ expense. Because of the limits put on individual contributions to parties, wealthy donors must now curtail their contributions to parties, thus reducing their financial power. Political parties only accounted for ca. 10 per cent of all the money spent in the congressional races during the 1990s. But parties can play an important role in promoting competition by supporting non-incumbents more than individuals or PACs can.

How bad is it if political parties are giving way to the PACs? Proponents of political parties say that the rise of PACs promotes the defence of “special interests” to the detriment of the “public interest”. PACs also tend to support incumbents. Today ca. 70 per cent of all PAC contributions goes to incumbent candidates, making the political system less accessible to challengers. PAC supporters state that not all PACs are the same. PACs have helped to get minorities elected to Congress and they represent a variety of interests which, when combined, express the public interest. Nevertheless,

several proposals have been put forward to curb the influence of PACs.

Second, thoughtful political engineering, combining a mix of private and public funding for political parties, may very well prevent parties from turning into semi-state organs or plutocratic toys. Specific instruments, such as the tax credit in Canada, have given an impulse to innovation. Tax credits (federally and in all provinces) stimulated individual donations by the middle class and family businesses and provided an expansion of the financial base for candidates and parties. Within a few years parties were able to reach a far greater number of potential donors than before, with the result that individual donations soon made up more than half of their total income. This in turn reduced the dependence of federal parties on corporate donations from the business community. The high level of economic development, the use of modern computer technology and the existence of an effective income tax system were essential prerequisites for the success of Canadian political finance regulation.

4.4. Public Monitoring of Political Funds

Experience has shown that intense regulation sometimes works against the original intentions. Tight rules seem to speed up the search for legal loopholes. Political finance in the UK has been characterized by the predominance of institutional donations from business corporations and trade unions to political parties, as well as by a reluctance to grant state aid or public subsidies to parties. For a long time, formal regulation of political finance concentrated on spending limits for candidates but failed to adjust to highly centralized national campaigns. The new act of 2000 has introduced major changes to the regime of political funding and subjects the conduct of political parties to statutory regulation. What has not yet changed is the British aversion to the public funding of politics.

Public funding and disclosure obligations were implemented in Australia because the former expenditure limit mechanisms seemed to be useless in the circumstances of modern party democracy. Current legislation is quite simple. This “rough” character seems nevertheless to work effectively. This is to the credit of the AEC: Several cases of abuse have been made public or have been controlled by this independent authority. In recent years a trend towards non-public investigation by the AEC – instead of public transparency of party receipts and spending – can be observed. There have

been several changes to the law on disclosure since its introduction in 1984. Despite the reforms there has never been effective transparency of private funds applied to political purposes in Australia.

Whereas Anglo-Saxon legislation against “corrupt and illegal practices” has traditionally been limited in scope, by addressing constituency campaigns only, the 1974 Canada Elections Act (and more recently the British Political Parties, Elections and Referendums Act of 2000) produced several improvements which are potentially suited for adoption in other parliamentary democracies. Political parties are officially recognized, their nationwide campaigns are included within the scope of the law, and their financial operations have been made subject to statutory transparency rules. The compulsory reporting of donations and campaign expenses has had a sanitizing effect on Canadian elections. As the regulation was satisfactory in general it has remained basically unchanged since 1974. A proposal by the CEO in 1999 to revise and update the Canada Elections Act, which was designed to introduce contribution limits and to improve reporting and disclosure, was not accepted by parliament. The major gaps in regulation will therefore remain. Unlike most of the provinces, the Canadian federation will not require constituency associations to file financial reports. Nomination campaigns and party leadership contests will remain outside the purview of the law.

4.5. Fighting the Cost Explosion

The debate on whether US campaigns are too expensive is inconclusive. The costs of campaigns have risen dramatically in recent years. But is it too much, or not enough? The answer depends on the perspective taken. Compared to other arenas the costs of the electoral process may seem low. As H. E. Alexander observed shrewdly in a discussion, “Americans spend more on chewing gum than they do on elective politics”. Other observers stress the limited accessibility of the system for those who are not wealthy. The “price of admission” may have become too high for us to be able to speak of equal rights among citizens.

The combination of high costs and contribution limits induces candidates to spend more and more time in raising money, possibly leaving too little time for their legislative duties. One solution is to limit spending by introducing for congressional campaigns a system whereby candidates accept limits in exchange for public funding (comparable to that for presidential elections), or in exchange for lower postage rates or lower rates for

purchasing television advertising. Another approach would be to abolish all limits. Since the efforts, started in the early 1970s, to prevent the influence of large contributions on political decision making and to promote a “level playing field” have been given up, the main task of the FEC is the disclosure of donations, where it has been quite successful. As a result of the enormous increase of soft money or independent expenditures, other tasks of the FEC have become more difficult.

Endnotes

¹ The inclusion of Canada in this chapter may seem a little strange, as it is a bilingual and multicultural country. However, the title of the chapter indicates traditions in the public law system in general and the law regulating political finance in particular. On both counts, Canada is much closer to Australia, the UK and the USA than to any other group of countries. We are also aware of the increasingly multicultural nature of other countries.

² Alain Pelletier of Elections Canada kindly supplied the data for these computations.

³ Ron Gould, former Assistant Chief Electoral Officer, provided helpful information for this paragraph.

⁴ I am indebted to Lisa Klein for some of the information in this paragraph.

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