

Money, Power, and Responsibility:

The Major Political Parties 50 Years Later

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ABSTRACT

The history of the major American parties as campaign funders over the last 50 years did not follow the recommendations of the 1950 report Toward a More Responsible Two-Party System. The parties slowly rebuilt their financial role from a low point after World War II to one of power and success by the mid-1990s. That success was erected on their growing nationalization, on their development of strong legislative campaign committees, and on their increasing mastery of the regulations enacted in 1974. No less important was their success in two great extra-legal innovations: the raising of soft money and the use of issue advertisements as unregulated pseudo-campaigning. With those successes come an increasing capacity for the parties to compromise the processes of representative democracy by offering contributors exclusive avenues of representation. That danger poses new challenges to the general disposition of political scientists not to favor regulation of party activities.

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The report of the APSA Committee on Political Parties in 1950 coincided with the end of an era of party domination of campaign finance. Before and during World War II most of the resources for running campaigns, apart from the decent efforts of the candidates and their little circles, came from the parties themselves. They provided the volunteers for canvassing the neighborhoods, the halls for rallies, the casts of thousands for parades. What had to be purchased they bought with cash contributions from their candidates, patronage appointees, plutocrats, aristocrats, and fat cats.¹

The immediate decade before the Report, moreover, was not a time of high-profile salience for parties and electoral politics. The war muted partisanship in the name of national unity behind the effort to defeat the Axis powers. Nor was campaign finance a salient reform issue, even after the war was over. The fabric of federal regulation, based on the Corrupt Practices Act of 1925 and the Hatch Act of 1939, had disintegrated. The \$3,000,000 ceiling on what a party committee might spend and the \$5,000 limit on individual contributions

meant little in a regime dominated by capacious loopholes and lethargic enforcement. As for the states, regulation of campaign cash was negligible or easily avoided in most of them.

I.) The Call for Reform of the Parties

Only by understanding this era of campaign finance can one understand the brief section of Toward a More Responsible Two-Party System on "campaign funds."² The section runs for less than one page (p. 75) of the report's 96 pages of text, and everything it says about campaign finance is deeply rooted in the electoral politics of the time and the party's control of it. Moreover, its four paragraphs reflect the report's three prime goals for the parties: they had to be strengthened, they had to be nationalized, and they had to be made more responsible.

The section opens with the theme and subject of the entire report. "Party unity and responsibility can be fostered through appropriate control of the collection and distribution of campaign funds."³ The limitations of the earlier legislation -- the \$3 million limit on annual party committee spending and the limit of \$5,000 on individual contributions -- "work toward a scattering of responsibility for the collecting of funds among a

large number of independent party and nonparty committees."⁴ To escape the limits, that is, the sources of money were fragmented and reduced the party's capacity for dominating campaigns. In the words of the report, "[r]epeal of these restrictions would make it possible for a national body to assume more responsibility in the field of party finance."⁵

Moreover, the "situation" -- presumably this dilution and dispersal of party control of campaign resources -- "might be improved...by giving a specified measure of governmental assistance to the parties." As examples of what they have in mind, the authors mention the Oregon state pamphlet showcasing candidates, the use of free mailing privileges in Britain, and provision of free radio time for the parties in Britain and Canada. All of the illustrations, that is, are of non-cash subsidies, and all are clearly intended for the parties rather than the individual candidates.

Finally, the authors declare "as a general proposition" that "everything that makes the party system more meaningful to all voters leads incidentally to a broadening of the base of financial support of the parties." Such a broadening would be the "best available means of checking the irresponsible power of the small minority of large contributors to party funds. As the parties attract more and more members the time may be reached

when they can depend largely if not entirely upon membership dues for their funds."

If that hope and prediction now seem more than a little naive, one might remember that Democratic reformers were still trying in the McGovern-Fraser report of the 1970s to establish a centralized and participatory membership party. Indeed, local, middle-class membership party organizations did develop in the 1950s within the Democratic party, stimulated by the charisma of its losing presidential candidate, Adlai Stevenson.⁶ Both parties, moreover, enjoyed modest successes in the 1950s with drives to broaden the base of their funding with door-to-door drives for cash or pledges.

In retrospect the APSA report and the attempts to revive grass-roots membership and funding came at the end of an era. The hopes of its authors to reestablish the old party hegemony in American electoral politics -- including their earlier superiority in amassing campaign resources of all kinds -- were doomed to failure. They tried to reestablish party-centered campaigning at the very moment it was beginning to disintegrate even further.

II.) Candidates and the New Electoral Politics

Not long after the appearance of the report and the eclat it generated, the American parties confronted far more serious challenges than the APSA committee wrote about in 1950. The story by now is familiar. The neighborhood party organizations began to fade after World War II, and with them persistent voter loyalties to them. Television entered the homes of America as the country's new source of political information; nine percent of American households had TV sets in 1950, 85 percent in 1960, and 95 percent in 1970. Candidates increasingly ran their own campaigns for which they, in large part, raised the necessary money. With increased campaigning on television, the candidates rather than party tickets became the focus of most campaigning. Given the erosion of parties' ability to provide volunteer help, campaigns and candidates inevitably entered an overwhelmingly cash-driven economy.

In this great transitional period, from about 1950 to the passage of new reform legislation in 1974, campaigning increasingly fell to the control of candidates, but it also became increasingly expensive. Presidential year spending on all campaigns, by all participants, rose from \$200 million in 1964 to \$425 million in 1972.⁷ Individual contributors to

presidential candidates. Clement Stone, a Chicago insurance executive, won national attention by giving \$2.14 million to Richard Nixon's 1972 campaign. That campaign and its excesses, as well as its Watergate illegalities, led to the one comprehensive attempt in American history to reform campaign finance: the Federal Election Campaign Act (FECA) of 1974.⁸

By the time of the drafting of the FECA in the 1970s, the parties had largely lost control of election campaigning, especially in national elections. When the Watergate scandals broke after the 1972 elections, it became clear that the perpetrators of the illegalities were from the Committee to Reelect the President (the so-called CREEP), a committee run by President Nixon and his White House staff. The Republican National Committee was hardly involved. Indeed, the organizational and fund-raising revival of the national party committees awaited the initiative and example William Brock was to bring to the RNC in the middle 1970s.

Needless to say, the FECA that the Congress wrote in 1974 reflected the electoral politics of its time, especially the candidate-centered politics. The candidate was its singular focus, with limitations placed and disclosure forced on all money flowing into and out of the candidate's campaign. Not surprisingly the Congress's goals in the FECA grew from the

problems of the 1960s and 70s. For example, only the single committee of the candidate was permitted to spend on the candidate's behalf, thus closing one of the largest loopholes of the 1925 law. It also met the problem of the wealthy "fat cat" contributor head on: individuals were limited to \$1,000 per candidate per election and an annual limit of \$25,000 in total contributions. Moreover, spending made to help the candidate without consultation with him or her (an "independent expenditure") was limited in sum and subjected to disclosure. Non-party committees (the PACs of everyday usage) were limited in their contributions to \$5,000 per candidate per election, but without aggregate annual limit. There were as well substantial limitations placed on candidates' use of their own resources on their own campaigns. The FECA's stance on the political parties, however, was far more complex.

Political party committees were limited to the same \$5,000 contribution limits that applied to PACs, but contributions to a party committee were limited stringently while contributions to other committees (PACS especially) were not limited. Individuals could give no more than \$20,000 per year to a national party committee and no more than \$5,000 to any other committee (chiefly the PACs), with a grand total limit of \$25,000 a year. PACs could give no more than \$15,000 per year to a national

party committee and \$5,000 to any other committee -- with no aggregate annual limit.

However, the national parties benefitted from a special category of spending: coordinated (aka "on behalf of") spending: spending on a campaign with the candidate's knowledge. The limits for those expenditures were indexed to the CPI and in the case of the Senate reflected comparative state populations. In 2000 they will be \$33,780 for a House campaign and for Senate campaigns will range from \$67,560 in the 13 least populous states to California's \$1,636,438.⁹ Those limits apply twice: to all three national committees taken together, and to all state and local committees taken together.

These party provisions may be complex, yet the consequences for the parties are clear. As the FECA defines money -- money raised under its limits and thus "hard money" -- there is really no limit to the total sums candidates can accept from PACs and individual contributors so long as they can win the support of more and more of them. But national party committees are limited to three -- the "national" national committee and the party committees in the House and Senate -- and each of them are forced to limit increases in coordinated spending to the rate of inflation. Worse, the limit on direct contributions is fixed at \$5,000; inflation by 2000 has reduced the purchasing value of

that sum to less than one-third of what it was in 1974.

If there was any overall philosophy governing the writing of the FECA, it was the hope that candidates would depend more and more on small contributions from the folks back home -- that the "giving constituency" would be a subset of the voting constituency. In that way FECA's drafters shared the hope of the APSA report that campaign funding would be returned to small individual contributions. But FECA envisioned a citizen base, not a political party base, for campaign finance, and it accepted the assumption that candidates rather than parties would raise the funds. Perhaps its authors sensed the declining health of the parties, already well under way with the atrophy of the grass roots and with the loss of the parties' monopoly over electoral politics to the burgeoning interest group movement.

III.) The Political Parties under FECA

Before the new FECA could be enforced in a single election campaign, the Supreme Court mutilated its comprehensive structure.¹⁰ The Court upheld the FECA's limits on contributions, but it struck down the limits on candidate spending, on independent expenditures, and on candidates' use of

their own funds in the campaign. The decision rested on the Court's ruling, for the first time, that the financial transactions of campaign finance were protected by the First Amendment and that the ill-fated spending sections of the FECA infringed protected rights while the limits on contributions did not. So, what had been a regulatory system depending on limits on all transactions in a campaign was now one resting only on limitations on contributions. The main impediments to escalating campaign costs had fallen.

Curiously, in the Buckley decision of 1976 the Supreme Court did not rule on the constitutionality of the FECA limits on the parties' coordinated spending. Apparently none of the plaintiffs raised the question for whatever reasons. Even more curious was the failure of the national parties to press the issue until the late 1990s. In the mid-1970s they were passive and feeble and, in truth, little constrained by the limits on their spending on candidates anyway. Rebuilding themselves, not legal challenges, preoccupied them.

William Brock and the national Republicans began that rebuilding after the 1972 elections. To provide the cash for reviving the party's national organization they simultaneously began both the direct mail solicitation of millions of their supporters and the establishment of computerized lists of

contributors. So armed they increased party receipts from \$8.9 million in 1975 to \$17 million in 1979 and \$37 million in 1980.¹¹ In the last years of the 1970s 75 percent of these receipts came from the direct mail appeals.¹²

The Democrats, weighed down with debts dating back to the 1968 campaign, did not begin their national rebuilding until the 1980s, but however belated, they adopted the Brock model. They improved their fund-raising materially, though never to the level of the Republicans. In 1980, for instance the DNC raised \$15.5 million against the \$77.8 million of the RNC. By 1987-88, however, the DNC had raised \$52.3 million, the RNC \$90.1 million. By the end of the 1988 cycle national party parity was still elusive for the Democrats. The three national Democratic committees in 1988 raised \$81.1 million, while the Republican committees took in \$191.5 million.¹³

While the parties struggled for the organizational strength with which to recapture their old electoral dominance, the pared down FECA went into effect at the last minute for the 1976 campaigns. Those campaigns and the ones that followed in 1978 were ones of testing and experimenting by all of the players in campaign finance. In particular, contributors of all kinds -- PACs, individuals, and parties -- tested the proposition that they could use their new statutory opportunities to defeat

unfriendly officeholders. A few PACs in particular won attention for targeting incumbents and publicizing hit lists. The National Conservative PAC (NCPAC or "nick-pac") claimed credit for unseating four Democratic senators in 1980 and became the icon of triumphant PACdom and the new power of money.¹⁴

The fear and loathing of PACs faded quickly. In the larger picture very few incumbent members of Congress were defeated by their money or anyone else's. Drawing on all the advantages of incumbency and on vigorous fund-raising of their own, they rode out the first aggressive assaults under FECA. Once again, more than 90 percent of incumbents running for reelection were successful; in the elections of 1984, 1986, and 1988 only an average of 12 House incumbents were defeated. PACs and affluent individual contributors learned their lesson, abandoned the electoral strategy, and fell back increasingly to a pragmatic legislative strategy of supporting powerful incumbents, especially those of the majority party. Incumbents had quickly reasserted their dominance of campaign finance.

Increasingly through the 1980s, congressional campaign finance slipped into an era of stability. The number of PACs, which had grown from 608 to 4,009 from 1974 to 1984, stayed on or near the 4,000 plateau for the 80s and 90s.¹⁵ More tellingly, their collective contributions to congressional candidates

increased at a rate slower than the rate of inflation; they collectively gave \$132.7 million to congressional candidates in 1986 and \$147.8 in 1988.¹⁶ Indeed, spending by all congressional candidates edged up at a comparable rate: from \$401.0 million in 1986 to \$411.4 million in 1990. Most important of all, levels of two-party competitiveness fell. The era of Ronald Reagan enabled Republicans to dominate presidential politics. In a congressional politics dominated by the majority Democrats, the two parties cultivated their safe seats and starved their challengers. The percentage of House elections won with 60 percent or more of the major party vote rose from 68.9 in 1982 to 88.5 in 1988.

The 80s were also a time of consolidation for the parties. Democratic and Republican spending for all congressional candidates -- i.e., contributions and coordinated spending by national, state, and local party committees -- reached \$23.8 million in 1982 and after moving to a high of \$29.0 million in 1988 settled back to \$23.7 in 1990

Within this overall stability, however, great changes slowly transformed the parties as funders.

-- The fixed limits on contributions to candidates made it inevitable that the parties would spend larger and larger shares of their money in the coordinated spending that also permitted a

more intrusive party role in campaigns.

-- Democrats began slowly to close the gap between their expenditures and those of the Republicans. The Republican spending superiority enjoyed a 4 to 1 advantage over the Democrats in 1982, but only a 1.4 to 1 edge in 1990.

--The 80s also saw the beginning of major soft-money raising by the parties, of which much more later.

Above all, the 80s was the decade of the maturing and new assertiveness of legislative campaign committees (LCCs). Those four committees in the U.S. Congress had been around for years¹⁷, but they entered the news again in the 1980s when Rep. Tony Coelho reinvigorated the Democratic committee (DCCC) to compete with the more effective Republicans (NSCC).¹⁸ At the same time Willy Brown, the Democratic Speaker of the California Assembly, and his fellow Democrats raised the unprecedented sum of \$4.4 million for the state's 1984 legislative campaigns. LCCs similarly reawoke in Illinois and New York.¹⁹ Legislative parties -- whether operating through leaders, caucuses, or special campaign committees -- had come of age as potent, independent players in campaign finance.

The consequences of LCC strength were momentous. Legislative parties became increasingly independent of the rest of the party and its controls. Moreover, LCC activity

eliminated any buffering intermediary in the troubling relationship between raising money and making public policy. Finally, by increasing their campaign role the LCCs increased their opportunity to recruit candidates and influence campaign strategy. Local party committees were the hapless losers.

IV.) The Parties Dominant

The 1980s interlude of stability in campaign finance was possible only because of the brief drying up of competition between the two major parties. That drought, however, ended in the 1990s. Public disenchantment with deadlock and careless ethics in Congress and state legislatures led to term-limit movements. Congressional unpopularity, and drastic post-census redistricting in many states led unprecedented numbers of members of Congress not to seek reelection. Sixty Democrats and Republicans contested in open seats in the 1990 elections, but in 1992 that number rose to 144. And Republicans, seeing an opportunity to recapture the House, began to fund their challengers more generously. Ultimately the Republican push for control of the House succeeded in 1994, but their small margin of control assured competitive House elections into the new millennium. As evidence of the surge of two-party

competitiveness in the 90s, we have only to remember that party control of the Presidency and the Congress changed in two consecutive elections in the decade.

Competition transformed the system of campaign finance. Aggregate spending by all congressional candidates rose from \$446.3 million in 1990 to \$680.2 million in 1992 and then to \$725.2 million in 1994. In 1994 only 64.5 percent of House general elections were won with 60 percent or more of the major party vote, the lowest percentage since 1964.²⁰ Thanks to a return to electoral strategies by some contributors, PACs primarily, the impoverished challengers, who had spent just 16.1 percent of the total spent by all House candidates in 1990, raised that percentage to 23.7 in 1996.

Prepared by the rebuilding of the 70s and 80s, the parties quickly picked up the scent of competition. Party contributions and coordinated spending in congressional campaigns rose so much that for the first time the FECA limits began to constrain them. They spent \$23.8 million on candidates in 1990 (57 percent by Republicans) but \$58.8 million in 1996 (59 percent by Republicans).²¹ Just between the presidential campaigns of 1992 and 1996 the national parties' total receipts under the FECA (i.e., hard money) -- by all of their national, state, and local committees -- rose from \$445.0 million to \$638.1 million.

Republican committees accounted for 60 percent of the total in 1992 and 65 percent in 1996.

Behind the growth of the national parties' funding of congressional campaigns was an almost invisible practice: agency agreements. The FECA limits on contributions to and coordinated spending on congressional candidates apply to two party levels: a single limit on all the national committees and the same one for the state and local committees. Thus for a House candidate in 2000 the national committees together may contribute \$5,000 in the primary and \$5,000 in the general election, as well as spend to a maximum (indexed for CPI increases) of \$33,780. That total of \$43,780 also applies to the party's state committees. The state committees may, however, transfer their spending "quotas" to the national committees by making them their agents. They have done so with increasing frequency; by 1976 about two-thirds of each party's state committees had ceded their spending limits to their national committees. The use of agency, therefore, increases national committee spending despite the constraints of the FECA. It also marks the weakness of state parties before the financial power of the national committees.

So far this material on campaign funding in the 1990s has dealt only with the regime of the FECA -- that is, with the candidate-centered getting and spending for the campaign that

the FECA regulates. In the 90s, however, the parties led a radical breaking out of the boundaries the FECA defined. They did so by raising money outside of the limits of the FECA (i.e., soft money), by spending money on the campaign but outside of the campaign (i.e., issue ads or advocacy), and by spending within the terms of the FECA in ways the statute's authors surely never intended (i.e., independent expenditures). Each of those assaults on the FECA's regulatory structure merits further explanation.

Soft money. By the time the Federal Election Commission ordered the parties in 1991 to account for the soft money they were raising, it was hardly a new phenomenon. Estimates in the press put the two parties' soft money revenues for 1988 at more than \$40 million. The first official reports documented a total of \$86.0 raised in 1992; by 1996 the total had almost trebled to \$262.1 million. In 1998, with only the mid-term congressional elections at contest, the total was \$183.9 million. However, because it was raised outside of FECA limits, soft money never was used in campaigns for federal office.²² And so, at first the two national parties spent the soft money on themselves: on staff, buildings, and equipment, as well as on generic party advertisements on behalf of the party qua party.

Soon, however, the parties became more inventive in their

use of the new bonanza. They began to send substantial amounts of money to the state parties, and even though the new reporting fails to disclose ultimate expenditures, the sheer numbers themselves are revealing. By the two-year election cycle of 1997-98, the three national Democratic committees sent \$34.8 million in soft money to state parties and spent \$43.2 in soft money as their share of joint activity. The Republican totals for the same categories in the same years were \$34.5 million and \$49.3 million in soft money.

As for the purposes of the soft money transfers, we must rely on anecdotal reporting and the FEC's reporting categories. Much shored up state and local party organizations and supported registration and get-out-the-vote campaigns, and some enabled state parties to fund state and local campaigns,²³ often in the hope that the support cultivated would rub off on the congressional and presidential candidates on the ticket. The House and Senate campaign committees began to use it to support promising state legislative candidates for at least two reasons: to control congressional reapportionment by the state legislature and to elect attractive candidates who might eventually run for Congress.

While the national party committees cannot spend soft money on congressional or presidential campaigns, they are not averse

to transferring it to state parties so that they may spent it to support federal candidates indirectly. The national parties may transfer it to key states for voter registration and get-out-the-voter drives. Soft money sent to state parties may allow them to save their hard money and use it more exclusively in the presidential or congressional campaigns. Soft money support for state and local candidates will also usually increase the turnout of party supporters for the entire party ticket. And then there are the issue ads it will buy.

Issue ads. Buried deep in the Court's lengthy opinion in Buckley was a brief passage of obiter dicta interpreting a section of the FECA limiting campaign communications by individuals "relative to a clearly identified candidate." If those words were to be held constitutional, the Court held that they "must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office."²⁴ Through that loophole the parties drove a herd of media salesmen. Beginning primarily in the 1990s radio and TV ads, ostensibly "issue ads" or "issue advocacy," supported or attacked candidates, even on the eve of an election, but maintained their status as non-campaigning by not using the magic words "vote for" or "vote against" or some approximation

of them.

Since pseudo-campaigning by issue ads is not campaigning in the eyes of federal courts, there is no reporting of the practice to the FEC. A private organization, the Annenberg Public Policy Center of the University of Pennsylvania, reports a 1998 total of between \$275 million and \$340 million in total issue ad expenditures, a range just about double its estimates for 1996. Those totals, unhappily for these purposes, include spending in national, state, and local campaigns by all organizations.²⁵ In their study of TV advertising in the top 75 media markets in the 1998 congressional elections, Krasno and Seltz report a total of \$20.5 million in political party spending on TV issue ads and \$10.4 million by groups; their definition of issue ads eliminated candidate spending, as well as party coordinated spending and party independent spending, and ads that appeared in smaller media markets. Moreover, the Krasno and Seltz data on cost covers only the actual purchase of air time; much of the reporting to Annenberg apparently included administrative and production costs. Clearly there are different definitions of issue ads at work, as well as different methodologies for identifying them.²⁶

In any event, issue ads open a broad new avenue in the campaign for parties and other groups. For the parties it is

easy to integrate spending on the ads into a total finance strategy. The House or Senate campaign committee of a party may not have the hard money to use to support a member in a tight race for reelection, or it may have spent hard money to the legal limit in that race already. What soft money it has available may then supplement the strategy by paying for issue ads attacking the opponent of the party's candidate.

Independent spending. In mid-1996 the Supreme Court unexpectedly held that political parties may make independent expenditures in campaigns -- providing they do not confer or plan with their own candidates!²⁷ Immediately, two national party committees, one in each party, leaped into action, spending \$11.5 million in the remaining months of the campaign. In 1998's congressional campaigns independent spending by national party committees dropped dramatically to \$1.6 million. One explanation would appear to be the most persuasive: the availability of a better alternative, spending on issue ads. Since it is outside the campaign, as independent spending is not, the issue ad can be paid for with soft money. Furthermore, the FECA mandated that independent expenditures be reported to the FEC, and no such requirement burdens the issue advertisers. In short, it would take some hefty limitations on issue ads to create a comparative advantage for independent spending.

Obviously, the parties are not alone in these new adventures in campaign finance. Any individual or group can raise soft money (i.e., money that would be illegal under the FECA if spent on candidates), and they too can buy issue ads. So, too, can they make independent expenditures on the same terms of hard money and disclosure as bind the parties. The parties, however, are vastly more advantaged and better adapted for the innovations of the 90s.

In sum, the new mastery the national party committees enjoy in campaign finance springs from a variety of sources.

-- First, the national committees enjoy the same advantages they bring to any task in electoral politics: long-term, enduring commitments, full time life as political organizations, and well-honed political expertise.

-- They benefit, too, from their centrality to the business of nominating and electing candidates; dominance of campaign finance is an extension of their long-held role in electing candidates to public office.

-- Their federated organization and their centralized fund-raising enable them to spend campaign funds at national, state, and local levels with new efficiency and with coordinated strategies for presidential and congressional elections.

-- Finally, of all the actors recognized by the FECA, the parties alone can use all of FECA's fund-raising and spending options -- including independent expenditures -- as well as the new extralegal options of soft money and issue ads.

The more complex campaign finance becomes, the more arcane its legal and political niceties, the more readily the parties dominate the regime. Small wonder that in less than two decades they have replaced PACs as the icons of American campaign finance. To some extent, especially in more hotly contested and higher stakes campaigns, they have even wrested control of campaigns from candidates.

V.) What Financial Power Wrought

The political parties' position as funders of electoral politics has changed enormously in less than 25 years. The record of that transformation is written in their reports to the FEC and to many state enforcement agencies. Less clear but equally as important is the effect that the new role of financier has had on the parties themselves.

To illustrate that point, consider the nationalization and centralization of the parties. Nationalization was under way

with the Brock revitalization in the 1970s and the Manatt-led Democratic catching-up in the 80s. Direct mail solicitations of computer based donor lists was done nationally and it was, therefore, a success for centralization. Success also gave the national committees a powerful cash tool for asserting their influence throughout the entire party hierarchies.

Most significantly, the newly rich national party committees further weakened the already weak state and local party organizations. More and more dependent on the charity of higher committees and having surrendered their license to spend in congressional elections by agency agreements and acquiesced to the initiatives of LCCs, local committees lose their core electoral responsibilities. Moreover, they lose volunteer activists, even party elites, as cash from higher committees enables them to contract for the phone banks and mailings once the province of volunteers. Service vendors now lick the stamps and envelopes. What issues or programs they support are increasingly defined by powerful non-party organizations within them (e.g., labor unions within the Democrats, conservative Christians among the Republicans) and by candidates armed with poll results and demographic data.

At the same time, having more and more money to spend on campaigns, inevitably makes the parties -- especially the

legislative parties -- even more exclusively electoral parties. Often to the displeasure of ideologues within the parties, they are more than ever obsessed with winning elections. Very rarely does party spending for candidates reward loyalty to party platforms or issue positions or even the legislative party itself. The goal in supporting legislative candidates is almost exclusively the maximization of the party cohort in the legislative chambers. Mavericks are welcome to the party label if they have good electoral prospects.

The growth in number and power of legislative campaign committees further supported the turn to electoral pragmatism. Their ability to raise increasing sums of money in the Congress and many state legislatures freed them from any dependence on or control by the national or state committees. Those latter committees now work only in executive politics, thus establishing a party division of labor that mirrors the separation of powers. An integrated campaign on behalf of the entire party in the state or the nation becomes less and less possible.

No recent document or event better illustrates the new fragmented, pragmatic electoral politics than Newt Gingrich's "Contract for America." Heavily funded by the NRCC and almost entirely the work of House Republicans, it was generated,

tested, and vetted by extensive polling and focus group research to identify the issues with the greatest voter appeal. It had no roots in the grass roots and, apparently, consultation about it with the RNC was very limited.²⁸

In short, we see a greater functional fragmentation of parties that have for a long time been fragmented regionally. Their different parts have differing constituencies and different electoral goals and interests. In this separation of function by party committees, the whole is lost. As much as parties may talk about party interests or party principles, there are few authoritative voices to speak on behalf of or to campaign for the party as a party. We are, in short, further than ever from the 1950 committee's vision of integrated, responsible major parties.

Even if one "elevates" the analysis to the less precise categories of role or function, the party-as-funder does not measure up as well as it did 50 years ago. As hard as it is to measure matters of role or function, they are central to the pervasive belief -- at least among scholars of parties -- that the parties enjoy a special status and importance as political organizations. From function and role we derive "contribution" to the larger polity and, hence, the importance of the parties in enabling and facilitating the political processes of this

mass representative democracy.

More specifically about assessing the health of parties by examining role and function:

-- If we look to the parties to fund competition and thus inform the electorate about the candidates, their increasing targeting, and thus limiting, of the number of races they will support -- with the resulting abandonment of unpromising races for office -- undercuts that ability.

-- The exploding levels of available money and thus of campaign costs (for which the parties bear some responsibility) hurt the recruitment of candidates by forcing them to provide or raise more and more cash for the campaign.

-- The electoral preoccupations of the parties deprive would-be activists of a classic incentive: program or ideology. The social or solidary incentives, at a time of "bowling alone," do not seem very useful. Consequently, the parties lose ability to recruit new political talent.

As the intended consequences of party power are increasingly focused, the unintended consequences do not happen as readily or serendipitously. And so, the case for party exceptionalism, and the consequent case for protected legal status, is diminished.

Power, and in this case financial power, inevitably raises the central issue of the APSA report: responsibility. In the simple marketplace of campaign finance, of course, the parties are responsible to their donors who may withdraw their money if they are not happy with its use. And yet it is apparent that, despite public grumbling, many of them do not. Periodic movements in corporate circles to boycott the major parties' raising of soft money have not greatly stanching the flow of soft donations. Fear of losing political favor and access blocks an effective show of resistance.

Alternative systems of responsibility have also failed or simply are not available. The option of grass-roots, intraparty democracy, or even of representative governance by party elites, never achieved much, and by now, with their continuing atrophy, it is a moot issue. Responsibility to voters is not an option either, since the question at most elections is the performance or commitments of candidates, not the political parties. The entire "responsibility to the voters" argument may have had credibility in 1900 or even 1950 when party ticket voting and voter loyalty to a party were far greater than they are today.

Nor does the pluralist solution work with the two parties. The individual member of Congress may accept PAC contributions from any set drawn from the more than 3,000 PACs active in an

election, many of them representing differing interests in one policy issue or another. Countervailing and offsetting contributions are very possible. In the duopoly of the party system, any member of Congress represents only one political party, and the Madisonian rule of large numbers does not apply.

What options remain? For at least the last 100 years when market or competitive mechanisms have failed as accountability mechanisms, the American public has often accepted the option of responsibility to it through legislated regulation. As the attempts to regulate national campaign finance since 1906 so vividly illustrate, the regulatory solution has not always succeeded. And the reason in the particular case of the FECA of 1974 is one of the most common. The regulated have been free to evade and innovate, but the regulators have lacked the political support for changes that would repair the regulatory regime. Reformist zeal tends to be intense but short-lived. Reform thus becomes an ever recurring necessity.

VI.) Responsibility, Regulation, Reform

The authors of the 1950 report addressed two great questions in proposing reforms of the two-party systems: the power or strength of the parties and their accountability, their

responsibility for it. If 50 years later one narrows reform concerns to the parties as campaign funders, the issue is primarily one of responsibility. The parties have won steadily increasing power and authority in campaign finance, and the end is not in sight. At the same time they increasingly elude the mechanisms of responsibility and the setters of limits: grassroots organizations, representative party hierarchies, and party-loyal voters chief among them. Each party committee -- and each organized group of party officeholders -- increasingly stands by itself, funded by itself, and largely responsible to itself.

Ironically, the case for new regulation of the parties' operations as campaign funders grows exactly at a time under which existing regulations are under mounting attack. The parties -- chiefly the Republican party and its allies -- argue in the federal courts that any regulation of the parties beyond disclosure of their getting and spending infringes their constitutional rights of political speech, association, and activity under the First Amendment. Not only are the sections of the FECA on the parties under attack, but so too are sections in the most effective statutes in the states. Ironically once again, these challenges come at the very time that the invocation of the same First Amendment rights has created

unlimited opportunities for campaigning via issue ads.

So the reform agenda, especially for political scientists, centers not on more regulation of party transactions, but on the question whether any regulation can be justified and supported. For many political scientists, furthermore, that will be the question whether they will put aside their customary opposition to most statutory regulations of the parties. Regardless of latent dispositions, one begins the inquiry with two paramount issues under the First Amendment.

The issue of corruption. The constitutional discussion begins with the circumstances under which any legislature may limit the getting or spending of campaign money. In Buckley v. Valeo the Court permitted limitation only in circumstances of "corruption or the appearance of corruption."²⁹ In the early years post-Buckley the Court interpreted the word corruption as an explicit quid pro quo, literally as bribery, but more recently it has moved closer to the broader meaning implicit in Lord Acton's great dictum that "power tends to corrupt; absolute power corrupts absolutely."³⁰

On this issue neither the justices nor political scientists are in agreement.³¹ The differences have been on display in a series of cases in which the FEC has accused the Colorado Republican party of violating the FECA's limitations on party

coordinated spending in the 1986 senatorial campaign in that state.³² In the initial appearance of the case before the Supreme Court, the Court surprised virtually everyone by holding that political parties could make independent expenditures supporting their own candidates. On the central issue, the constitutional status of limits on parties' coordinated spending, only four of the justices were prepared to invalidate the limits and permit unlimited party spending.

The position challenging the right of Congress to regulate parties on the "corruption" issue received a classic statement in a brief supporting the defendant Republicans filed by political scientists in the first Colorado case.³³ Money spent in campaigns, they argued, is "probably" the "cleanest money in politics", and carrying the metaphor further, that is so because a party follows a principle of sanitary engineering: "the solution to pollution is dilution."³⁴ Within the political party there is some mechanism, in other words, that strips the identity and interests of the donor from the money it receives and then permits the party to spend or give it with only the identity and interests of the party attached. It cannot therefore corrupt the recipient candidates or policy-makers.

Jonathan Krasno and I have rebutted that argument several times.³⁵ Our position begins with a conviction that large

contributions in support of an explicit policy interest potentially "corrupt" public officials by creating extra avenues of influence and representation, a heightened "access," in this representative democracy. As we wrote for the FEC in the Colorado case:

...the main issue remains the availability of the extra opportunities to persuade. Such opportunities resulting from campaign contributions corrupt the central relationship of mass, democratic representative government by permitting some citizens to acquire a preferred representational avenue, to be listened to more promptly or more intently or more often. While it is inevitable in a large popular democracy that influence will not be evenly distributed, it is not inevitable that the avenues of representation or opportunities to influence -- the very heart of the representative processes -- will be skewed by campaign contributions.³⁶

Moreover, party money is not cleansed either of the donor's name or the donor's interests. The identity of the substantial donor, especially, is guaranteed by the special honors, meetings, briefings, and clubs that assure donors that they will not slip into anonymity.

Nowhere are those realities clearer than in the case of

fund-raising by legislative campaign committees (LCCs). With them there is no intermediary "party" that might soften or deflect the determination of donors; the same people raise and disperse the money. Moreover, they are also the leaders who will define the party's legislative program and who will mobilize party votes in the legislature. In short, LCCs sit precisely at the nexus of money and governing that most directly raises the possibility of corrupting the representational processes.

Indeed, a case can be made that party money is, in instances such as these, the most interested, the "least clean" money. The politically sophisticated donor must surely realize that giving \$10,000 to an LCC can earn the gratitude of a whole legislative party and its leadership while \$2,000 to five candidates can at most win the gratitude of five legislators. And if that donor plays high stakes games for high stake rewards, he or she must also realize that the \$10,000 contribution may in some elections help a party take majority control of a legislative chamber.

The issue of party exceptionalism. The argument for exceptionalism is an honored one in political science. It is the claim that political parties, because of their importance in electoral and officeholder politics, must be given greater

deference and greater freedom than other political organizations, especially than political action committees (PACs). One of the principal authors of the 1950 report, E. E. Schattschneider, gave the claim its enduring justification:

The parties, in fact, have played a major role as makers of governments, more especially they have been the makers of democratic government...[D]emocracy is unthinkable save in terms of the parties....The parties are not therefore merely appendages of modern government; they are in the center of it and play a determinative and creative role in it.³⁷

Almost 60 years later those sentiments are alive and very well in political science.

The Supreme Court has yet to began to address the issue of party exceptionalism, but it has moved in a direction that suggests it is unwilling to grant blanket First Amendment protections from regulation. In a recent Supreme Court case upholding Missouri's limits on individual contributions to candidates, the majority, speaking through Justice Souter, set a standard of impact or consequence for such claims. The Court required "a showing [of] a system of suppressed political advocacy" as an indication of harm to the regulated themselves and, more broadly, to the political system. In this particular

case Justice Souter propounded a specific test: "Whether the contribution limitation was so radical in effect as to render political association ineffective, drive the sound of a candidate's voice below the level of notice, and render contributions pointless."³⁸

Those formulas would appear to sharply limit the arguments of exceptionalism, but they have not died yet. They reappeared in a new Republican attack on the section of Missouri's statute limiting the contributions of political party committees. In dismissing that suit summarily the Federal district court applied the tests quoted above.³⁹ An appeal seems certain.

VII.) Political Science in 1950 and 2000

Both the commitment to party exceptionalism and its twin, a fondness for parliamentary government, predate the 1950 report by many decades, but the report marks one of their major statements. While that report was rooted in one historical era and in the progressive hubris of an earlier one, the myth of party exceptionalism lives on. One need only mention the Committee for Party Renewal and its following among political scientists specializing in political parties.

No political scientist, I presume, would deny the importance of political parties and their contributions to mass,

representative democracies. Certainly I do not. Democracy may be imaginable without the parties -- pace Schattschneider -- but the price of their absence, even their wounding, would be high. However, with their rebirth as campaign funders comes a price, too, if we reject reform and regulation. Lord Acton made no exceptions to his dictum on the potentiality of power to corrupt, and neither should we.

Nor should we political scientists lend our credibility to the dubious constitutional position that the political parties enjoy, or ought to enjoy, a preferred constitutional position under the First Amendment. It is a position tantamount to arguing that, of all political actors and organizations, the parties must enjoy absolute First Amendment protection, that they alone must be protected by the Amendment from any limiting legislation. That is a position unlikely to move the federal courts, and it may damage the authority of scholarly political science.

Much of the discipline's resistance to the regulation of the parties reflects a protective stance no longer necessary. The parties were indeed subjected to punitive regulation, largely in the states, and in the last century it often contributed to their inactivity and ineffectiveness. By the turn of the millennium, however, the worst of that legislation

has been repealed or invalidated, and just as important, parties have found a path not only to new power but to a massive disconnect of old avenues of accountability. The solutions of the 1950 report for the problem of accountability are unquestionably obsolete, but the problem itself, alas, is not. We continue the search for a more responsible two-party system.

The struggle for reform of the parties in campaign finance will engage all of our own skills as policy scientists. It begins with the work of developing neutral principles to guide the courts in deciding the consequences of regulation, and thus its reasonableness, and in assessing what regulations suppress the political advocacy protected by the First Amendment.

Moreover, the policy agenda shifts almost annually. The states, particularly those with easy ballot access for initiatives, continue to consider new reform measures, and many of them pose new policy questions -- for instance, very low limits on party contributions and the limiting of party roles in publicly funded campaigns. Above all, we must cope seriously with all the issues surrounding the escalating sums of soft money the national party committees (and some of the state committees) raise. Most of the reform proposals, however, advocate its total abolition; the options of limiting it in various ways remain relatively unexplored. Once again we face

polar alternatives unless we define an alternative.

In short, the time has come to end the discipline's habitual reaction to the regulation of political parties. And yet, a mindless justification for each and every old or new regulation is hardly a viable alternative. We must not exchange an old absolutism for a new one. The harder, but more realistic and useful task is to draw lines, to define and distinguish, to tailor the regulation precisely to the problem. And thus to find mechanisms for party accountability, at least for a generation or two.

1. On the period between the two world wars see Louise Overacker, Money in Elections (New York: Macmillan, 1932), and Alexander Heard, The Costs of Democracy (Chapel Hill: University of North Carolina Press, 1960).

2. Published under the authorship of the Committee on Political Parties of the American Political Science Association as a Supplement to Volume 44, number 3 of The American Political Science Review (September, 1950).

3. Ibid. This quotation and all subsequent quotations from the report are from p. 75.

4. That \$5,000 limit on contributions was a considerable sum of money in 1950. In the inflated dollars of the late 1990s it had a purchasing power more than 6 times that figure.

5. Emphasis added.

6. James Q. Wilson, The Amateur Democrat (Chicago: University of Chicago Press, 1962).

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7. Herbert E. Alexander, Financing Politics, 3d ed. (Washington: CQ Press, 1984), p. 11.
 8. I have summarized the post-World War II history at much greater length in Money in American Elections (Glenview: Scott, Foresman, 1988), chapter two.
 9. The one exception to the uniform limit for all House districts is this: the limit is doubled in states with only one congressional district. All of the figures here are a sum of the limit applying to the party's state committee and the identical limit applying to the parties' three national committees taken together. If a state committee deeds its allowed sum to the party's national committees in an agency agreement, those national committees may then spend the entire sum.
 10. Buckley v. Valeo, 424 U.S. 1 (1976).
 11. These data come from the reports of the Federal Election Commission; all subsequent data will be drawn from the same sources unless noted to the contrary.
 12. Xandra Kayden and Eddie Mahe, Jr., The Party Goes On (New York: Basic Books, 1985), 73-74.
 13. In 1988 the two Republican campaign committees in Congress led their Democratic counterparts by almost four to one: \$100.5 million to \$28.7 million.
 14. I have treated the early evolution of the FECA's regime more extensively in chapter one, "What Buckley Wrought," in E. Joshua Rosenkranz, ed., If Buckley Fell (New York: Century Foundation Press, 1999), especially pages 12-26.
 15. The FEC reported 3,835 active and registered PACs on January 1, 2000.
 16. The data of this and the following sentences of this paragraph come from Norman Ornstein, Thomas Mann, and Michael Malbin, Vital Statistics on Congress 1995-1996 (Washington: American Enterprise Institute, 1996).
 17. They are: Democratic Congressional Campaign Committee (DCCC), Democratic Senatorial Campaign Committee (DSCC), National Republican Congressional Committee (NRCC), and the National Republican Senatorial Committee (NRSC).

18. The Coelho/DCCC story is observed with something of a jaundiced eye by Brooks Jackson, Honest Graft (New York: Knopf, 1988).

19. On Illinois, see Kent D. Redfield, Cash Clout (Springfield: University of Illinois at Springfield, 1995); on New York, see Daniel M. Shea, Transforming Democracy (Albany: State University of New York Press, 1995).

20. Ornstein, Mann, and Malbin, Vital Statistics on Congress 1995-1996.

21. The data here include national, state, and local party committees' spending on congressional candidates because the FEC aggregates the data in that way.

22. The most common ways in which money is raised softly outside of FECA are two: it comes from a prohibited source (e.g., a corporate treasury) or in prohibited amounts (e.g., an individual contribution of more than \$20,000).

23. In 1977-78 the soft money sums for this purpose were not great: \$3.8 million for the Democrats and \$11.1 million for the Republicans.

24. Buckley v. Valeo, 424 U.S. 1 (1976), at p. 44. The section of the FECA in question is 608(e)(1).

25. I am not certain, but the Annenberg data may also include ads paid for with hard money and even some candidate purchased ads.

26. See Jonathan Krasno and Daniel Seltz, Buying Time: Television in the 1998 Congressional Elections (New York: Brennan Center at NYU Law School, 2000), especially p. 34. Their analysis reviewed a commercial archive of media trackings in the largest media markets; the yield was 2,100 separate commercials that aired more than 300,000 total times.

27. Colorado Republican Federal Campaign Committee v. Federal Election Commission, 518 U.S. 604 (1996).

28. See the very useful report on the Contract in Robin Kolodny, Pursuing Majorities: Congressional Campaign Committees in American Politics (Norman: University of Oklahoma Press, 1998).

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29. Buckley v. Valeo, at p. 25.
30. Letter to Bishop Mandell Creighton, 1887, cited in John Bartlett, Familiar Quotations, 13th edition (Boston: Little, Brown, 1955), p. 663.
31. The nine justices are known; the political scientists are those who have signed or written affidavits, memoranda, or briefs of amicus curiae in recent campaign finance cases.
32. Colorado Republican Federal Campaign Committee v. FEC, 518 U.S. 604 (1996).
33. cite to amicus curia in Col Rep case
34. Brief Amicus Curiae Committee for Party Renewal, pp. 16-17.
35. See our memoranda in Colorado Republican Party on remand to the federal district court sitting in Denver (decided in February, 1999), and in Missouri Republican Party v. Lamb, U.S. District Court, Eastern District of Missouri, Eastern Division.
36.
Memorandum in Colorado Republican case.
37. Party Government (New York: Rinehart, 1942), p. 1..
38. Nixon v. Shrink Missouri Government PAC, 120 Sct 897 (2000), pp. _____. Justice Souter offers the formulations as a restatement of the Court's opinion in Buckley v. Valeo.
39. Missouri Republican Party v. Lamb, Judge _____ presiding; opinion of late June, 2000.