On the Causes of Campaign Finance Reform: Power, Parties, and Ideology

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In this paper I present ideas on why reforms to campaign finance laws occur. In particular I focus on the conditions that are likely to foster or frustrate the enactment of laws that make elections more competitive (competition-enhancing reforms). This class of reforms holds normative significance; as prominent theorists emphasize, the competitiveness of elections is elemental to functioning democracy.¹ Thus, I do not aim to present a theory to explain every type of reform – or even all of those reforms that may have consequences for the competitiveness of elections – but rather to present conjectures based on deductions from well known political science theories, which may (or may not) provide useful baselines for rigorous empirical investigations.

The paper proceeds as follows. I present three sets of assumptions about political actors and their contexts and consider how each set of assumptions leads to distinct reform expectations. The result of these deductions is a simple matrix summarizing the conjectures presented in the paper (see Table 1 below). The table highlights those factors that are likely to foster or frustrate competition-enhancing reforms. The argument assumes an elite-dominated lawmaking process, in which campaign finance laws result from the choices of rational (i.e. maximizing) politicians and parties. I do not reject the idea that societal actors – such as unions and businesses – are crucial to the politics of campaign finance; rather my focus on elite choices is an analytic convenience but one with a considerable benefit, for this simplification allows us to look closely at the incentives faced by elites and how these shape their choices. We can, I argue, explain a great deal using this relatively parsimonious theory.

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I begin with the simple, widely accepted observation that politicians are office-seekers.² It follows that they are motivated by their desire to remain in power. How does this incentive affect their choices in campaign finance lawmaking? There are first- and second-order effects. The dominant logic is that office-seeking leads incumbent politicians to make

laws to stay in power. In practice incumbent-favouring laws tend to be relatively lax, in the sense that they combine loose restrictions on disclosure, contributions, and spending, with an absence of public funding.\(^3\) This configuration creates serious obstacles to viable challenges to resource-endowed incumbents and reinforces their tenure in office. The office-seeking postulate also leads to another, subsidiary expectation: politicians seek to enact popular reforms, because these are likely to help them to be re-elected. In contrast to the characteristics of incumbent-protecting laws, popular reforms are likely to be relatively ‘tight’, that is to embody stricter regulations on disclosure, contributions, spending, and (perhaps) supportive of public funding. The reasoning is intuitive: the possibility and actuality of power alternation are widely held democratic ideals; and polling data affirms the depth of support for these ideas.

Yet these two incentives – to enact incumbent-protecting laws as well as popular, competition-enhancing laws – are clearly at odds. How do cross-pressured politicians respond? The first incentive (incumbent-protection) is a direct pressure; the laws on campaign finance impact directly politicians’ chances of winning in forthcoming election contests. Popularity, the second pressure, is more diffuse; it may dissipate or vanish by the time it is needed (i.e. at election time). Consequently, a rational office-seeker will attribute more weight to the first incentive. Generally, therefore, office-seeking will lead politicians to enact incumbent-protecting campaign finance laws. There is, however, an exceptional scenario when this does not hold. This is when the popularity benefits from enacting competition-enhancing reforms are likely to be large and sustained, perhaps in the aftermath

of a highly publicized money-politics scandal. Yet this situation, where scandal leads to reform, is – for the reasons I have explained – likely to be relatively rare.⁴

The second analytic cut is to consider how the presence of political parties alters the calculus of politicians. Up until now I have not explicitly considered how politicians are organized. Following John Aldrich, we can think of a group of unorganized politicians as a ‘faction’.⁵ It is a team of ambitious office-seekers who compete under a generic brand at election time. Instead of factions I introduce ‘parties’. A party is a thicker institution, with its own interests and capacities to punish and reward the politicians that it organizes, especially through its control of viable election candidates.⁶ Parties exist to solve politicians’ collective action problems; by creating them politicians typically gain (from coherence and in resources) more than they lose (from loss of personal autonomy).⁷ Parties differ from politicians-in-factions in two ways. First, they generally have longer time horizons. Office-seeking politicians, we generally assume, care only about the next election, but parties think about periods extending beyond that. The second difference between parties and politicians concerns the costs of election defeats. Factions, composed of and driven by politicians, view each election defeat in the same way. For parties, however, the costs of defeat escalate. Lengthy periods of exile from government are acutely harmful – and indeed they threaten its existence.⁸ Therefore, assuming that a party will govern for a set number of terms it will generally prefer regular alternations in power to a prolonged period of government followed by a lengthy stint out of power. So, if given a choice between either three terms in power plus three terms out of power or consistent alternations over the course of six terms, a party will prefer the second option.

⁴ The history of US federal campaign finance reform supports this conjecture; see Raymond J. La Raja, Small Change: Money, Political Parties, and Campaign Finance Reform (Ann Arbor, MI: University of Michigan Press, 2008), p. 84-87.
These two features – longer time horizons and increasing costs from election defeats – lead a party to prefer campaign finance laws that allow more inter-party competition than a loose group of office-seeking incumbents would choose. Given that it will spend some time out of government, a party will ideally like to minimize the number of viable competitors – which means, to the extent possible, limiting alternation to two parties. In the perfect cartel, two established parties collude to exclude small parties but also maintain financing laws that enable each a reasonable chance to win office. Neither party ‘fixes’ absolutely the financing rules in their favour when they win power (for fear that their opponents will do the same in the future). It is, however, difficult to maintain these conditions because rules that foster regular power alternation between two established – or ‘insider’ – parties also create opportunities for insurgent ‘outsider’ parties. For instance, the disclosure provisions which allow the principal opposition party to challenge the governing party on its sources of funds also allow a new, small party to make similar arguments against both establishment parties. Thus, the laws that maintain power alternation between the major parties help – to some degree – emergent parties to be competitive in election contests.

The final analytic cut is to consider the role of ideology and issues. First, I allow parties to assume distinct ideological identities, or conceptions of what is ‘good’ or ‘right’. Parties, therefore, are both pragmatic and ideological; winning elections is a central objective but implementing ‘good’ or ‘right’ laws is also an important goal. A party will generally prefer options that are congruent with its ideology. If there is one dimension of ideology, with ‘left’ and ‘right’ as its extreme values, the parties therefore occupy different positions on this left-right spectrum. An ‘issue’ describes a situation where lawmakers choose how to act. I consider, therefore, that delay, neglect, and oversight are choices to maintain the status

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quo. Put simply, issues compel attention. How do lawmakers make choices on issues? The answer depends on the relationship between the issue and the underlying ideological dimension.

When a party forms the government, it seeks to implement policies that align with its ideological stance. This implies that if an issue or policy choice is framed in ideological terms then there will be variance in the parties’ preferences on that issue. This variance takes at least three forms. First, most obviously, the parties may disagree about what should be done – a difference of direction. The parties may instead disagree about how far to go – or the speed, intensity, or scope of a proposed law. Thirdly, the parties may diverge regarding the importance of an issue, whether or not it is a priority. With non-ideological issues the parties hold similar positions regarding what should be done, to what degree, and when, but compete over which party is better able to achieve these goals. Ideological competition, however, is deeper. So while parties with distinct ideologies may compete over competence, their more fundamental contest is over the direction, scope, and precedence of discrete proposals.

I assume, crucially, that the looseness / tightness of campaign finance laws is an issue that correlates with the underlying left-right ideological spectrum. If we take seriously the claims of campaign finance theorists and activists, this assumption seems to be quite reasonable. As Dworkin summarizes: ‘Our answer to a philosophical question – what is the best conception of democracy? – is likely to be decisive of whether we endorse or reject not only campaign expenditure limits but other ways of regulating our electoral process’.11 Arguments that support or oppose basic elements of campaign finance laws are generally derived from competing conceptions of democracy and, in particular, the notions of freedom and equality.12 So, in most democracies, supporters of tighter regulation defend their

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position on the basis of equity arguments, which are consistent with egalitarian conceptions of democracy. Their opponents, critics of stringent regulations and supporters of skeletal campaign finance regimes, invoke liberal democratic arguments that highlight a special role for freedom. In the frequently heated debates about campaign finance, there are few advantages in admitting the merits in opponents’ perspectives. But the very intensity of these arguments spring from the fact that there are fundamental sources for these divergent perspectives: a preference for either liberty over equality or for equality ahead of liberty.

The relationship between the left-right ideology dimension and the tightness-looseness issue division is shown in Figure 1 below. The imperfect correlation between the two dimensions implies – ceteris paribus – that a left-leaning party will choose to enact tighter campaign finance laws than a right-leaning party. Note that this is not because the left-leaning party is less self-interested or more altruistic than its right-leaning rival, but rather a logical consequence of the parties’ ideological predispositions.

[Figure 1 here]

An Empirical Illustration

While the purpose of this paper has been to generate conjectures on the likely direction of campaign finance reforms, I discuss briefly the Australian experience of campaign finance reform, which supports some of the theory’s key implications. It is only one case, it cannot prove the empirical validity of the conjectures developed above, but I hope that it suggests their plausibility.

The history of campaign finance reform in Australia shows that incumbency of a strong left-leaning party was critical in the introduction of sweeping reforms to tighten the

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political funding regime. The case also illustrates some of the other themes from the theory: scandals do not compel reforms; strong right-wing parties are predisposed to measures that loosen political funding rules; and major parties act on their incentive to establish political duopoly.

Australia’s founding fathers steered clear of electoral matters during their debates on the new federation, so the first federal election was conducted using the states’ varied electoral regulations. In 1902, a year after this first election, the comprehensive Commonwealth Electoral Act, regulating all electoral matters including the financing of election candidacies, was passed. This original legislation was skeletal and – moreover – its few provisions were ignored en masse and with impunity: candidates running for state and federal office regularly – perhaps usually – exceeded the statutory spending limits.

Only in 1979 did the discrepancy between the legal requirements on campaign financing and political practice become a live issue. The critical moment was the challenge in a state court, for the first time, of a candidate’s election victory on the grounds of overspending. Soon the entire membership of the Tasmanian House of Assembly faced similar allegations. Anticipating a barrage of challenges against federal politicians, the right-leaning Commonwealth government repealed the parts of the Commonwealth Electoral Act that pertained to the regulation of money in politics. Though the right-leaning Coalition government, headed by Prime Minister Malcolm Fraser, announced its intention to reinstate a system of regulation it chose to not act upon the proposals of an independent committee set up for this purpose. The result, by default, was a system of complete laissez-faire. In 1983, however, a new left-leaning federal government, led by Labor leader Robert Hawke,

16 Cass and Burrows, ‘Commonwealth Regulation of Campaign Finance’.
18 Using language introduced earlier, this was a choice to maintain the status quo.
enacted sweeping new reforms, which included public funding (paid retrospectively based on electoral performance), disclosure requirements for donations (that applied to both donors and recipients), and creation of an independent electoral commission. These reforms have fostered – simultaneously – the growth of smaller parties while entrenching the dominance of the two major parties.\(^{20}\) Interestingly, these reforms were mirrored at the state level when Labor parties were in power (and normally in the face of opposition from right-wing parties and interest groups).\(^ {21}\) And, when the Coalition returned to power led by John Howard, several regulatory provisions – and especially donor disclosure requirements – were loosened.

Consistent with the theory in this paper, the scandal in Tasmania did not compel reform; right-leaning governments opposed competition-enhancing reforms; and left-leaning parties sponsored competition-enhancing reforms. The competition-enhancing reforms that were passed in Australia – by the federal and state Labor parties – were not enacted for altruistic reasons. Rather, Labor benefited disproportionately from reforms such as public subsidies because the Coalition enjoyed fundraising advantages. But an unintended, if not unanticipated, effect of these reforms was greater opportunities for the non-incumbent major party in future elections as well as smaller parties. This spillover effect, I have argued, is a result of the correlation between left-wing equalitarian ideology and the campaign finance tightness-looseness issue dimension.

**Conclusion**

In this paper I have presented some basic theory-generated conjectures on the shape of campaign finance reforms. Numerous features of campaign finance politics that are absent from this framework are important for understanding these politics in practice. What the theory has sought to do is distil the strong, recurring incentives at work in these politics.


Their manifestation in practice will, however, turn on a range of case-specific factors. But the theory provides a baseline from which to better understand these case-specific contingencies. Its predictions might, for instance, lead us to ask why Labor governments prior to the Hawke government did not enact comprehensive financing legislation, or why the Hawke government went only as far as did, and did not enact spending limits and other measures that are consistent with egalitarian models of democracy. In short, by understanding more clearly the underlying mechanics of campaign finance politics, we gain better appreciation of the unique aspects in particular cases and of how and why these diverge from theoretical benchmarks.
Table 1
Campaign Finance Reform Matrix

<table>
<thead>
<tr>
<th>Competitiveness of Campaign Finance Laws</th>
<th>Scandal</th>
<th>Party Organization</th>
<th>Governing Party</th>
<th>Party System</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Strong</td>
<td>Weak</td>
</tr>
<tr>
<td>Competitiveness of Campaign Finance Laws</td>
<td>+</td>
<td>–</td>
<td>+</td>
<td>–</td>
</tr>
</tbody>
</table>

Figure 1
The Left-Right Ideological Spectrum and Tight-Loose Issue Spectrum

Tight

Left

Loose

Right