

Big Change Or Much Ado About Nothing?  
The Impact of Bill C-24 and the Bipartisan Campaign Reform Act on Political  
Fundraising in Canada and the United States

by

Dustin Tyler Dunlop  
M.A., University of Victoria, 2007

A Thesis Submitted in Partial Fulfillment of the  
Requirements for the Degree of

MASTER OF ARTS

in the Department of Political Science

© Dustin Tyler Dunlop, 2007  
University of Victoria

All rights reserved. This thesis may not be reproduced in whole or in part, by photocopy  
or other means, without the permission of the author.

## **SUPERVISORY COMMITTEE**

Big Change Or Much Ado About Nothing?  
The Impact of Bill C-24 and the Bipartisan Campaign Reform Act on Political  
Fundraising in Canada and the United States

by

Dustin Tyler Dunlop  
M.A., University of Victoria, 2007

Supervisory Committee

Dr. Colin Bennett, (Department of Political Science)

Supervisor

Dr. Matt James, (Department of Political Science)

Departmental Member

Dr. Dennis Pilon, (Department of Political Science)

Departmental Member

Dr. Herman Bakvis, (School of Public Administration)

Outside Member

## Supervisory Committee

Dr. Colin Bennett, (Department of Political Science)

Supervisor

Dr. Matt James, (Department of Political Science)

Departmental Member

Dr. Dennis Pilon, (Department of Political Science)

Departmental Member

Dr. Herman Bakvis, (School of Public Administration)

Outside Member

## ABSTRACT

Recent changes to campaign finance laws in Canada and the United States provide researchers with a unique opportunity for comparative studies on the effects of reform on fundraising at the grassroots level. In an effort to contribute to the understanding of these recent reforms the following comparative case study examines the effects of *Bill C-24* (2003) and the *Bipartisan Campaign Reform Act of 2002* on the campaigns of one Canadian Member of Parliament and one American Congressional Representative. The study suggests that while the impact of the most recent American reforms has been somewhat exaggerated by scholars, changes to campaign finance laws in Canada have caused substantial change at both the national and grassroots level.

SUPERVISORY COMMITTEE	ii
ABSTRACT	iii
TABLE OF CONTENTS	iv
INTRODUCTION	1
CHAPTER 1:	
HISTORICAL OVERVIEW OF CAMPAIGN FINANCE LEGISLATION	5
Early American Reforms	5
The FECA Reforms	12
Early Canadian Reforms	21
The Barbeau Committee	24
The Election Expenses Act	27
Conclusion	34
Table 1: Contribution & Spending Limits for Federal Candidates (House of Representatives)	39
Table 2: Contribution & Spending Limits for Parliament	40
CHAPTER 2: BILL C-24 AND THE BCRA: THEIR INTENDED EFFECTS	41
Background to BCRA	41
Legislative History	44
Major Provisions of BCRA	46
<i>McConnell v. FEC</i>	50
Hypothesized Effects of BCRA	52
Background to <i>Bill C-24</i>	56
Legislative History	58
Major Provisions of C-24	59
Hypothesized Effects of C-24	63
Conclusion	66
CHAPTER 3: THE IMPACT ON FUNDRAISING IN ONE CANADIAN RIDING AND ONE U.S. DISTRICT	70
C-24 and Grassroots Fundraising: Big Change For Some, Business as Usual for Others?	70
Profile of a Canadian Riding	71
Fundraising in Canada: The Situation Prior to C-24	72
Financial Overview: Tracking the Money	75
C-24: Change Sure, But for Who?	76
An Increased Emphasis on Individual Contributions?	76
Effects of C-24 on Fundraising Tools	80
Effects on Local Campaigns Vis-à-vis the National Party	82
Increased Centralization Due to Onerous Reporting Requirements	84
Effects on the Amount of Time Committed to Fundraising	85
A New Emphasis on Monthly Contributions?	86
BCRA and Congressional Fundraising: Much Ado About Nothing?	88
Profile of a Congressional District	88



Fundraising in the U.S.: The Situation Prior to BCRA	89
Financial Overview: A Preoccupation With Individuals and PACS	90
Individual Donors	91
Effects of BCRA on Individual Contributions	93
Political Action Committees	93
Effects of BCRA on PACs	94
Congressional Campaign Committees	95
Effects of BCRA on Fundraising Tools	97
Effects of BCRA on the Amount of Time Committed to Fundraising	100
Conclusions	101
 CHAPTER 4: COMPARATIVE CONCLUSIONS	 106
 APPENDIX	 114
 BIBLIOGRAPHY	 116

The master's thesis presented here takes the form of a comparative case study exploring the following question: how have recent campaign finance reforms influenced political fundraising at the grassroots level in Canada and the United States? More specifically, this study examines the effects of *Bill C-24 (2003) (An Act to Amend the Canada Elections Act and the Income Tax Act)* and the *Bipartisan Campaign Reform Act of 2002 (BCRA)* on the campaigns of one Canadian Member of Parliament and one American Congressional Representative respectively.

*Bill C-24* can be roughly divided into three sections. First, the bill bans, with minor exceptions, political donations by corporations and unions to any registered political party or leadership contestant. To offset this loss of corporate and union donations, the legislation introduces a number of public financing measures that increase the amount of reimbursements for both candidates and parties. Second, the legislation limits individual contributions to an annual amount of \$5,000 in total to each party, its electoral district associations, candidates, and nomination contestants. Third, the law extends the regulatory regime to include scrutiny of party constituency associations, nomination contests, and leadership campaigns.

BCRA has two main components. First, the legislation prohibits the raising and spending of "soft money" by federal candidates and national parties. Soft money is funding given to the political parties rather than their candidates which, prior to BCRA, was subject neither to contribution limits nor the usual prohibitions on corporate, labour, or foreign support. Second, to deal with the issue of candidate-specific advertising, the legislation redefines what constitutes a campaign advertisement, subject to disclosure requirements and contribution limits. An additional provision of BCRA increases

individual contribution limits, which had not been adjusted since 1974. The new limits increase the maximum individual contribution to House candidates from \$1,000 to \$2,000 per election and index those limits to adjust for future inflation.

The following study is important for several reasons. From a personal standpoint, my participation in the re-election campaign of a Member of the Legislative Assembly of British Columbia, as well as my work as a researcher with the provincial government caucus, has sparked a personal interest in the ways in which political campaigns are managed and financed in Canada. As such, the proposed research question provides an excellent opportunity to gain similar insights into how grassroots campaigns are financed in the United States—possibly contributing to my goal of pursuing further graduate education in the U.S. In addition to personal considerations, the issue of campaign finance reform is currently highly relevant on both sides of the border. In Canada, revelations surrounding the sponsorship scandal contributed to the defeat of the federal Liberal Party of Canada in the 2006 election and served as a major impetus behind the aforementioned *Bill C-24*. In the U.S., one of the most powerful figures in Congress, Republican House Majority Leader Tom DeLay, was recently indicted by a grand jury in Texas for alleged breaches of campaign-finance law. In addition, several congressional politicians have recently been linked to lobbyist Jack Abramoff who is serving five years in prison for his role in defrauding American Indian tribes and corrupting public officials.

In addition to being highly topical, the proposed topic is important because of the relative lack of comparative literature on the topic. While much has been written on American efforts at campaign finance reform, and to a lesser extent on Canadian experiences in this field, my preliminary research indicates a lack of comparative work

on the subject. Moreover, what has been written on the subject tends to focus on the higher or abstract level. Rather than examine the effects of reforms on the national parties or interest groups or the democratic system itself, as much of the literature does, I plan to focus on how legislation has affected the local candidate at the grassroots level. Further, due in part to the recent nature of the legislation under consideration, there has yet to be any significant analysis of how recent reforms have affected subsequent election campaigns—the practical implications are to a large extent still unclear. For these reasons, I believe this study to be a worthwhile project.

In order to examine how recent reforms have influenced grassroots political campaigns in Canada and the United States, a comparative case study method has been employed. To this end, the campaign staff of a Canadian Member of Parliament and a member of the U.S. House of Representatives have been interviewed. They were selected because they possessed first-hand knowledge of how recent reforms affect the day-to-day activities of political campaigners.

In addition to and in preparation for my interviews with campaign staff it has been necessary to analyze data available in documents such as campaign materials, disclosure records, and newspaper articles. By examining this type of information prior to the interview process I was able to gain a better understanding of the campaigns being studied. Once informed, I used the interviews to fill in the rest of the story.

In order to ensure the interviewees were able to provide useful insights it was necessary to select political representatives who were running for re-election during their most recent campaign. This helped ensure staff were able to compare their campaign(s) prior to the introduction of the recent legislation with their campaign(s) afterwards.

Moreover, to ensure comparability, the campaigns selected for the interviews needed to represent roughly similar electoral districts—in size, average income, demographics, etc. In addition, the interviews have focused on comparable questions that can be asked of interviewees from both countries. An example of such a question is: how have recent reforms affected the amount of time committed to fundraising?

The following analysis has been divided into four chapters. An introductory chapter offers a historical overview of the evolution of campaign finance legislation in Canada and the United States. If one is to appreciate the most recent attempts at reform, a basic understanding of the basis for prior legislation and the inadequacies of such legislation is required. A second chapter includes a detailed examination of the two bills central to this study—*Bill C-24* in Canada and BCRA in the U.S. Here the main components of the legislation and their hypothesized effects are examined. A subsequent chapter has been dedicated to presenting the findings of my empirical work. The results of the interviews have therefore been laid out in chapter three. Finally, a concluding chapter offers a brief comparative analysis of how reforms have affected grassroots campaigns in Canada and the United States. This concluding chapter also offers some insights into what the case study says about Canadian and American democracy.

## CHAPTER 1: HISTORICAL OVERVIEW OF CAMPAIGN FINANCE LEGISLATION

A comparison of campaign finance legislation in Canada and the United States requires an analysis of the historical evolution of such laws. One cannot fully appreciate the rationale behind recent attempts at reform in both countries without an understanding of the inadequacies, consequences, and provisions of the legislation that preceded it. For this reason, the following analysis begins with a historical overview of campaign finance legislation in the U.S. and Canada. Taking a chronological approach, an attempt is made to paint a picture of how reform has occurred. As such, this survey is divided into two sections. First, an examination of American efforts at reform from the late nineteenth century until the 1996 federal elections is provided. A second section will analyze Canadian experiences from the late nineteenth century to about 2000. Having provided an analysis of each nation's approach to regulating the financing of elections, a second chapter will focus on the circumstances surrounding the most recent attempts at reform and offer a description of the main provisions of the legislation.

### Early American Reforms

Decades before Canadian confederation, Americans began calling for campaign finance regulation. In fact, American attempts at reform can be traced back to before the Civil War, as a response to the perceived unfair nature of the spoils system in place at the time.<sup>1</sup>

---

<sup>1</sup> Anthony Corrado et al., eds. *The New Campaign Finance Sourcebook* (Washington, DC: Brookings Institute Press, 2005), 8.

The modern era of American politics began in the early nineteenth century when elections ceased to be the pastime of the upper classes and became open to professional, middle class politicians who organized themselves into political parties.<sup>2</sup> Whereas in the past wealthy individuals had financed their own campaigns, the emergence of strong, organized political parties, brought with it a new source of funding for election campaigns. As the modern American party system emerged at the turn of the nineteenth century, so too did the spoils system—a system in which victorious candidates in an election would award party supporters with government jobs. In exchange for these positions, new government workers were required to contribute an “assessment” or percentage of their salary to the party. This assessment system became the primary source of funding for parties at the time and it soon came under attack by critics who claimed it posed a threat to the “freedom of elections.”<sup>3</sup>

Feeling pressure to address the issue, Congress passed what is considered to be the first provision of federal law relating to campaign finance. On 2 March 1867, Congress included in a naval appropriations bill a final section that prohibited the solicitation of political contributions from government workers employed at naval yards.<sup>4</sup> Although only applying to a small subset of government workers and having little effect on party fundraising, the legislation was nonetheless the first of its kind in the United States and it served as a starting point for future legislation.

---

<sup>2</sup> Robert E. Mutch, “The Evolution of Campaign Finance Regulation in the United States and Canada.” in *Comparative Issues in Party and Election Finance*, ed. by Leslie F. Seidle (Ottawa: Dundurn Press, 1991), 57.

<sup>3</sup> Corrado, *The New Campaign Finance Sourcebook*, 8.

<sup>4</sup> *Ibid.*

The minimal provisions introduced in 1867 did not end calls for civil service reform. In 1883 Congress passed the *Pendleton Act* in response to the assassination of President James A. Garfield by a disappointed office seeker. The act created a class of federal government workers who had to complete a competitive exam to gain employment. It also prohibited the solicitation of contributions from these workers. In addition to creating a professional civil service, the Act had important unintended consequences. Although corporations were a source of campaign funding before the reforms of the 1880s, they became the principal source afterwards.<sup>5</sup> As the flow of money from government workers through the assessment system dried up, corporate contributors stepped in to fill the void. However, in the decades to follow, Congress faced increasing pressure to curb large corporate contributions, until public sentiment and political scandal caused Congress to finally act in 1907.

By the turn of the century, the assessment system had been replaced by a system in which wealthy businessmen and corporations played a central role in financing elections. As a result, a political scandal exposing this increasing power of corporate interests served as the major impetus behind America's first real federal election finance law. In 1905, a New York state investigation into the insurance industry found that insurance companies had secretly contributed large sums of money to the Republican presidential campaigns of 1896, 1900, and 1904.<sup>6</sup> The scandal, which would have a similar effect on Canadian lawmakers, was heavily publicized by the American media and forced Congress to enact the *Tillman Act*. Passed in 1907, the bill prohibited

---

<sup>5</sup> Ibid, 10.

<sup>6</sup> Mutch, "The Evolution of Campaign Finance Regulation in the United States and Canada," 59.



contributions and expenditures from banks and corporations.<sup>7</sup> However, illustrating the problem that eventually besets all attempts at reform, the *Tillman Act* was quickly circumvented by political parties that began to rely more heavily on contributions from the heads of corporations, as opposed to the corporations themselves.

Immediately following the New York State investigations, the National Publicity Law Association was formed. This group was ultimately successful in lobbying the state government of New York to adopt a disclosure law and helped convince Congress to enact the *Federal Corrupt Practices Act of 1910*—also known as the *Publicity Act of 1910*. This legislation established the country's first disclosure requirements. However, the law only stipulated that national party committees provide post-election reports of receipts and expenditures.<sup>8</sup> By exempting candidates from the disclosure requirements, a large proportion of expenditures and contributions went unreported.

The small flurry of legislation following the insurance scandal of 1905 was complete by 1910. It was not until 1925 and the emergence of a new political scandal that Congress again concerned itself with campaign finance reform. The Teapot Dome Scandal referred to a series of improprieties linked to President Warren Harding's Secretary of the Interior, who had secretly leased government oil reserves at Teapot Dome, Wyoming, to private developers in return for bribes.<sup>9</sup> In addition, a loophole in the disclosure requirements in the 1910 law had allowed one developer to make a number of contributions to the Republican National Committee without reporting them because they were made in a non-election year. In response to these revelations, Congress took steps to

<sup>7</sup> Mark Green, *Selling Out: How Big Corporate Money Buys Elections, Rams Through Legislation, and Betrays Our Democracy* (New York: HarperCollins Publishers Inc., 2002), 42.

<sup>8</sup> Corrado, *The New Campaign Finance Sourcebook*, 13.

<sup>9</sup> Mutch, "The Evolution of Campaign Finance Regulation in the United States and Canada," 69.

strengthen the disclosure law by passing the *Federal Corrupt Practices Act of 1925*—an amendment to the 1910 legislation.

The *Federal Corrupt Practices Act of 1925* was the most ambitious attempt at reform to date. Strengthening the disclosure requirements enacted in 1910, the bill required that House and Senate candidates, as well as multistate political committees, file quarterly reports that included all contributions of \$100 or more, even in non-election years.<sup>10</sup> The legislation also imposed caps on federal campaign expenditures. Senate campaigns could spend up to \$25,000, while House campaigns were limited to \$5,000, unless state law set a lower limit. However, from the start, it was clear the bill was full of loopholes and provisions without teeth.<sup>11</sup> For instance, candidates could easily avoid the bill's spending limits by claiming that any excessive expenses were incurred without their "knowledge or consent." In a 1926 Illinois Senate campaign, the Democratic candidate Frank M. Smith defeated the incumbent GOP Senator by engaging him in a spending war in which each man illegally spent over a half million dollars.<sup>12</sup> Further, because the spending limits applied to party committees, candidates could easily avoid them by creating multiple committees for their campaign. On its own, each committee would technically comply with the limits, but taken together, the money funneled into the committees could greatly exceed the amount allowed by law. The bill's disclosure requirements were also easily avoided. The law did not specify who had access to the reports; it did not require that the reports be published; and it did not include any

---

<sup>10</sup> Corrado, *The New Campaign Finance Sourcebook*, 15.

<sup>11</sup> Green, *Selling Out*, 44.

<sup>12</sup> *Ibid.*

penalties for noncompliance.<sup>13</sup> As a result, no one was ever prosecuted for failing to comply with the law and it was another four decades before the ineffectual law was replaced by more comprehensive legislation.

Before turning to our main subject of analysis—the *Federal Election Campaign Act* (FECA) reforms of the 1970s, two prior pieces of legislation require examination—the *Hatch Act of 1939* and the *Taft-Hartley Act of 1946*. While content-wise these bills may appear closely related to the civil service reforms of the late-nineteenth and early twentieth century, they are important to note because of their impact on the role interest groups would come to play in American politics. Specifically, one cannot understand the growth of political action committees (PACs), which have figured so prominently in recent elections, without an appreciation for how the provisions included in these two bills encouraged the proliferation of such organizations.

One of the consequences of President Franklin Roosevelt's New Deal was a dramatic increase in the size of the federal workforce. With the approach of the 1940 election, many opponents of the New Deal became increasingly concerned that the ever-expanding federal public service would become a permanent political force in the Democratic Party.<sup>14</sup> To prevent this from happening, anti-Roosevelt Democrats, who opposed the New Deal as well as the president's decision to run for an unprecedented third term in office, joined forces with Republican members of Congress to pass the *Hatch Act* in 1939. Also known as the *Clean Politics Act*, the bill sought to minimize the role of federal employees by extending the civil service regulations embodied in the

---

<sup>13</sup> Corrado, *The New Campaign Finance Sourcebook*, 15.

<sup>14</sup> Corrado, *The New Campaign Finance Sourcebook*, 15.

*Pendleton Act* to the rest of the federal workforce. The bill explicitly prohibited the solicitation of political contributions from all federal employees.<sup>15</sup>

Continuing in the direction of the *Hatch Act*, in 1946 a newly Republican Congress made permanent a temporary ban on labour union campaign contributions by passing the *Taft-Hartley* or *Labour Management Relations Act*. This legislation was particularly significant. By prohibiting the use of union treasury funds as a source of campaign contributions, Taft-Hartley established a principle of campaign finance law that has existed, at least on paper, ever since. More importantly, by banning the use of union treasury funds, the law encouraged unions to find other ways to influence elections. Prevented from using their treasuries to finance campaigns, unions began to form auxiliary committees to support candidates. These committees were the first PACs. Unions would collect money from members apart from their dues and then funnel the funds into committees that would make contributions to candidates.<sup>16</sup> The first such committee was created in July 1943 by the Committee for Industrial Organization—later called the Congress of Industrial Organizations (CIO)—which had been founded in 1935. The CIO formed the CIO-PAC, the first modern PAC, to collect and disburse the voluntary political contributions of its union members.<sup>17</sup> Following the passage of Taft-Hartley in 1947, the country's other major labour organization, the American Federation of Labour (AFL), formed its own PAC, called Labour's League for Political Education. While corporations did not emulate labour's support for political action committees for roughly two decades, the Hatch and the Taft-Hartley Acts created an environment in

<sup>15</sup> Mutch, "The Evolution of Campaign Finance Regulation in the United States and Canada," 72.

<sup>16</sup> Corrado, *The New Campaign Finance Sourcebook*, 18.

<sup>17</sup> Larry J. Sabato, *PAC Power: Inside the World of Political Action Committees* (New York: W.W. Norton & Company, 1984), 5.

which groups, prevented in one way from participating financially in politics, sought alternative means of participation. In the end, just as the *Tillman Act* before it had replaced the assessment system with one more reliant on funds from big business, the *Taft-Hartley Act* replaced one method of union political involvement with another.

### The FECA Reforms

The *Federal Election Campaign Act (FECA) of 1971*—the first piece of legislation in a wave of reform that swept through Congress in the 1970s, reflected a desire by lawmakers to control ever-increasing campaign costs. One way in which the bill sought to achieve this objective was by setting limits on the amount a candidate could contribute to his or her own campaign. In addition, the act set ceilings on media-related expenditures.<sup>18</sup> To address inadequacies in the 1925 *Federal Corrupt Practices Act*, the Act also imposed strict disclosure requirements on both federal candidates and political committees.<sup>19</sup> However, the Watergate scandal quickly forced Congress to enact further legislation designed to deal with a whole host of other issues.

While the 1971 FECA came to be overshadowed by the more ambitious and comprehensive 1974 reforms, one of the bill's provisions is crucially important to note in examining the growth of PACs during the 1970s and 1980s. The first political action committees emerged during the 1940s as unions sought new avenues of political involvement in response to Congressional efforts to prevent them from using their treasury funds to finance campaigns. While this practice was adopted by American labour

---

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

unions early on, corporations were slow to emulate the practice—until after the FECA reforms of the 1970s. While PACs are not defined by federal law, a series of provisions included in the FECA, as well as a number of Federal Election Commission advisory opinions, established the rules by which they operate.<sup>20</sup> The 1971 FECA, for example, legitimized PACs by explicitly granting to both corporations and unions the right to create, administer, and raise funds for their PACs, and to cover all organizational expenses from corporate or union treasuries.<sup>21</sup> This is an important point to make before examining how the 1974 FECA provided these groups with an added incentive to form PACs.

In response to the improprieties uncovered during investigations into the Watergate scandal, Congress passed a series of amendments to the FECA in 1974. The resulting legislation, it has been suggested, represents the most sweeping change imposed on the interaction between money and politics since the creation of the U.S. republic nearly two hundred years earlier.<sup>22</sup> The provisions of the 1974 amendments can be divided into five categories. First, the legislation strengthened disclosure requirements. This was achieved in part by improvements to the disclosure provisions of the 1971 law and also by the creation of a new agency—the Federal Election Commission (FEC)—to administer and enforce the law.<sup>23</sup> Second, the law created an innovative system of public funding for presidential campaigns to prevent the kinds of corrupt practices and heavy reliance on corporate money highlighted by Watergate. Beginning in 1976, presidential

---

<sup>20</sup> Sabato, *PAC Power*, 8.

<sup>21</sup> *Ibid.*

<sup>22</sup> Herbert E. Alexander, "The Regulation of Election Finance in the United States and Proposals for Reform," in *Comparative Issues in Party and Election Finance*, ed. Leslie F. Seidle. (Ottawa: Dundurn Press, 1991), 9.

<sup>23</sup> Corrado, *The New Campaign Finance Sourcebook*, 22.

candidates of the major parties could receive public funding if they agreed to refrain from raising additional private funds. Third, the 1974 amendments imposed a set of strict limits on political contributions designed to guard against the types of large contributions that had been so controversial during the Watergate investigations. The law capped individual contributions to candidates and set annual aggregate limits for contributions to federal candidates and political committees. The amounts of these limits are crucial to note in explaining the rapid growth of PACs from 1974 onward. Fourth, the bill limited independent expenditures made on behalf of a federal candidate to \$1,000 per year.<sup>24</sup> Finally, in an effort to control campaign costs, the law set expenditure limits for candidates for federal office. Candidates for the House of Representatives were permitted to spend no more than \$70,000 during a nominating or general election. These limits were extended to cover personal expenditures by candidates on their own behalf. A self-financed candidate for the House of Representatives could spend no more than \$25,000 of his or his family's personal funds.<sup>25</sup>

One of the most important aspects of the *1974 FECA Amendments* is the bill's unforeseen consequences. Two provisions of the 1974 reforms encouraged the proliferation of corporate PACs. First, the law repealed a provision of the 1939 *Hatch Act* banning corporations and unions that held federal contracts from forming PACs. Second, and more importantly, the law established higher contribution limits for PACs than for individual donors—\$5,000 versus \$1,000. The bill also placed an aggregate cap of \$25,000 on individual contributions to federal candidates with no such limit on PAC

---

<sup>24</sup> Corrado. *The New Campaign Finance Sourcebook*, 23.

<sup>25</sup> *Ibid.*

donations. Thus, after 1974 individuals and groups had a strong financial incentive to form PACs.<sup>26</sup> It should come as no surprise that as a result, from 1972 to 1983, the number of PACs registered with the FEC increased from 113 to 3,525.<sup>27</sup> Similarly, during the “PAC decade,” the amount committees contributed to candidates rose from \$19.1 million to \$190.2 million—a jump of 900 percent.<sup>28</sup> It is also useful to note that by instituting a system of public financing for presidential elections alone, the law had the effect of concentrating PAC money on congressional campaigns, since presidential candidates could rely on public funds.<sup>29</sup> Clearly, these new rules would have important, if unintended, consequences in the decades to follow.

While the regulations included in the 1974 FECA sanctioned PACs, the FEC, in one of its early rulings, also encouraged PAC formation. In 1975, the recently created commission issued an advisory opinion in response to a request for clarification by the Sun Oil Company of its rights as a corporation vis-à-vis its PAC. Sun Oil asked the FEC whether the PAC it hoped to form would be allowable under the FECA. The company also asked whether it would be legal to use corporate funds to establish, administer, and raise money for the PAC.<sup>30</sup> In a 4-2 ruling, the commission held that the company could establish a PAC and that it would be legal to finance the administrative and overhead costs with corporate funds.<sup>31</sup> By clarifying any ambiguities regarding the formation of PACs, the FEC had paved the way for hundreds of corporations, trade associations and other groups to increasingly take advantage of the new legitimacy granted to political

---

<sup>26</sup> Corrado, *The New Campaign Finance Sourcebook*, 31.

<sup>27</sup> Sabato, *PAC Power*, 10-11

<sup>28</sup> Sabato, *PAC Power*, 14.

<sup>29</sup> *Ibid.*

<sup>30</sup> Corrado, *The New Campaign Finance Sourcebook*, 31.

<sup>31</sup> *Ibid.*



action committees. In the end, a seemingly innocuous amendment to an otherwise useful bill, combined with a routine ruling by a newly created federal agency, created the money source that today accounts for between one-third and half of all monies raised by members of the House of Representatives.<sup>32</sup>

In January 1976, the U.S. Supreme Court, in its landmark ruling in *Buckley v. Valeo*, found several sections of the 1974 FECA unconstitutional. The case before the court hinged on whether the bill's provisions violated the right to freedom of speech guaranteed by the First Amendment of the U.S. Constitution. In its decision, the court found that contributions and expenditures were dissimilar enough to warrant being treated differently on two grounds.<sup>33</sup> First, the court found that contributions posed a threat of political corruption that expenditures did not. Noting the corruptive influence of large donations, the court found:

“To the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined.”<sup>34</sup>

As a result, the Act's purpose of limiting “the actuality and appearance of corruption resulting from large individual financial contributions” was seen as a constitutionally valid justification for the \$1,000 contribution limit.<sup>35</sup> Second, the court saw contributions and expenditures as two different forms of speech. Contributions, it was argued, only serve to indicate a contributor's support for a candidate's views—they have no greater

---

<sup>32</sup> Green, *Selling Out*, 61.

<sup>33</sup> Corrado, *The New Campaign Finance Sourcebook*, 92.

<sup>34</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>35</sup> *Ibid.*

communicative content.<sup>36</sup> Expenditures, on the other hand, were found to be a very different form of speech. Since expenditures serve to communicate one's own ideas rather than just their support for the views of someone else, restrictions of expenditures pose much greater First Amendment problems.<sup>37</sup> Describing the affect of expenditure limits, the court noted:

"It is clear that a primary effect of these expenditure limitations is to restrict the quantity of campaign speech by individuals, groups, and candidates. The Act's expenditure ceilings impose direct and substantial restraints on the quantity of political speech... [thereby limiting] political expression at the core of our electoral process and of the First Amendment freedoms."<sup>38</sup>

As a result, the bill's limitations on independent expenditures by individuals or groups, on campaign expenditures, and on expenditures by a candidate from his personal funds, were struck down as unconstitutional. The only exception to these findings was if a presidential candidate voluntarily accepted public funding, in which case the candidate would have to abide by the spending limits.<sup>39</sup> Finally, the court also ruled that the congressional appointment of commissioners to the FEC was an unconstitutional violation of the separation of powers.

Because of its timing, the *Buckley* decision made it highly doubtful the legislation adopted in 1974 would have any affect on the 1976 elections. As a result, Congress had to act quickly to change the law if it were to have any effect on the upcoming election. While President Gerald Ford pressed for a bill that would simply reconstituted the FEC,

<sup>36</sup> Corrado, *The New Campaign Finance Sourcebook*, 93.

<sup>37</sup> Corrado, *The New Campaign Finance Sourcebook*, 93.

<sup>38</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>39</sup> Alexander, "The Regulation of Election Finance in the United States and Proposals for Reform," 12.

Congress, still operating in a climate of scandal, decided to draft more comprehensive legislation.<sup>40</sup>

The *1976 FECA Amendments* changed the method of appointing FEC commissioners to conform to *Buckley*.<sup>41</sup> In addition, the legislation strengthened the FEC's enforcement powers by granting the agency exclusive authority to prosecute civil violations of the law.<sup>42</sup> With regards to expenditure limits, the new law kept in place restrictions on presidential campaign expenditures, but applied it only to publicly funded candidates so as to conform to *Buckley*. Finally, in order to counteract the Supreme Court's prohibition of independent expenditure limits, the legislation contained a number of new disclosure requirements designed to ensure accurate reporting of independent spending.<sup>43</sup>

The *1979 FECA Amendments* represent the last major piece of campaign finance legislation prior to the adoption of the *Bipartisan Campaign Reform Act of 2002*. In contrast to most of the legislation enacted before and after, the 1979 legislation was more of a response to complaints from political parties and other strategists than reformers. Simply put, the 1979 amendments were designed largely to reduce the paperwork burden placed on campaigns. This was achieved by a relaxation of the reporting requirements imposed on candidates and party committees. Moreover, the legislation addressed complaints that some of the restrictions included in prior legislation had eliminated the role of state and local parties in presidential contests. In this regard, the law included important provisions allowing state and local parties to underwrite voter registration and

---

<sup>40</sup> Corrado, *The New Campaign Finance Sourcebook*, 27.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

get-out-the-vote drives on behalf of presidential campaigns without financial limits.<sup>44</sup>

However, as a consequence of these allowances for local parties, an incentive was created to use these activities to circumvent the restrictions placed on federal campaign expenditures. As a result, the 1979 FECA has come to be remembered for contributing to the growth in soft money that became so endemic by the 1990s.

Soft money is money given to the political parties rather than their candidates, which, prior to 2002, was subject neither to contribution limits nor the usual prohibitions on corporate, labour, or foreign support. In order to appreciate the rationale behind the recent *Bipartisan Campaign Reform Act*, it is important to note that at the same time as regulatory conditions were encouraging the proliferations of PACs, similar provisions were being created, allowing state, local and federal parties to raise increasing amounts of soft money.

Soft money first appeared in U.S. politics in the 1970s as a result of complications arising from American federalism. The root of the problem lay with the fact that many federal and state election campaigns, though governed by different rules, take place simultaneously.<sup>45</sup> As a result, when federal campaigns came under increased scrutiny during the FECA reforms of the 1970s, many state party organizations became legitimately concerned about how these new federal regulations would affect their ability to participate in presidential elections. Generally, the debate over the role of state parties in federal elections has centered on the funding of so-called "party building activities" like voter registration and get-out-the-vote drives. Because these activities benefit

---

<sup>44</sup> Alexander. "The Regulation of Election Finance in the United States and Proposals for Reform," 15.

<sup>45</sup> Green, *Selling Out*, 70.

candidates at both the state and federal levels, groups have sought clarification from the FEC as to how funding for these activities should be apportioned between the various state and federal campaigns. In 1976, in its first ruling on the issue, the FEC advised the Illinois Republican Party that while one-third of the costs for party-building activities could be borne by federal candidates, such activities could only be financed with FECA-compliant contributions—that is funding subject to federal contribution limits—or hard money.<sup>46</sup> However, in an important contradictory advisory opinion issued two years later, the FEC opened the flood gates of soft money when it ruled that the Kansas Republican Party could use state party funds to pay for the nonfederal portion of its party-building activities. In its ruling, the commission stated: “The costs allocable to non-Federal elections may be paid out of Party funds raised and expended pursuant to applicable Kansas law.”<sup>47</sup> As a result, the Kansas GOP was allowed to use corporate and union contributions, illegal under FECA but permitted under Kansas law, to pay for the nonfederal portion of party-funding activities. It was only a matter of time before money that was supposedly going towards local party building was being coordinated with Senate and House nominees, circumventing the restrictions provided for by FECA.

Before turning to an analysis of Canadian campaign finance legislation, a few notes regarding the explosion of soft money on the American political scene are useful. Two decades before the solicitation of soft money led to investigations into the fundraising practices of the Democratic Party during the 1996 national elections, the FEC opened the floodgates of soft money. Four years after the FEC issued its important 1976

---

<sup>46</sup> Ibid.

<sup>47</sup> “Federal Election Commission Advisory Opinion 1978-10,” 29 Aug. 1978, <<http://ao.nictusa.com/ao/no/780010.html>> (27 Jun. 2006).

“Kansas GOP” opinion, the Democrats and Republicans had combined to spend \$19.1 million in soft money. Eight years later, during the 1988 election, this figure ballooned to \$45 million.<sup>48</sup> However, while the 1980s could be accurately defined as the “PAC decade,” the 1990s saw the ascendancy of soft money. From 1992 to 1996, the amount of soft money spent by the national parties increased from \$79.1 million to a staggering \$271 million.<sup>49</sup> Despite the controversy surrounding the solicitation of such funds during the 1996 election, the parties continued to raise ever-increasing amounts of soft money, spending almost \$500 million during the 2000 election. When one compares this to the \$692 million in FECA-compliant hard money the parties raised in 2000, it is accurate to say that the emergence of soft money had effectively all but destroyed the spending limits for publicly funded presidential candidates, rendered contributions limits meaningless, and made irrelevant the provisions of the FECA reforms. Clearly, the stage was set for much needed reform.

### Early Canadian Reforms

Having examined the historical evolution of campaign finance legislation in the United States, it is necessary to offer a similar treatment of Canadian efforts. At Confederation, the few federal laws concerning political finance in Canada dealt with simple forms of corruption, like bribing politicians and buying votes. In fact, because Canada lacked a modern party system until the 1896 general election, there was little concern regarding national party financing.<sup>50</sup> At the time, election campaigns were

---

<sup>48</sup> Green, *Selling Out*, 70.

<sup>49</sup> Ibid.

<sup>50</sup> Robert E. Mutch, “The Evolution of Campaign Finance Regulation in the United States and Canada,” 58.

generally funded one of two ways: candidates could pay their own expenses or be paid to run by the leader of the party. Under such a system, the need to scrutinize the ways in which parties raised funds and financed their candidates was less clear. However, this all changed in 1873 when a national political scandal forced parliament to examine the issue.

Shortly after the 1872 general election it was revealed that the company awarded the contract to build the Canadian Pacific Railway had donated generously to the governing Conservative Party at the direct behest of Prime Minister John A. Macdonald.<sup>51</sup> Forced to resign over the scandal, the Conservatives were replaced by the Liberals who wasted no time in passing the *Dominion Elections Act of 1874*.

Under the *Dominion Elections Act*, candidates were required to appoint officials to disclose the amount of money spent during an election as well as how the funds were spent. However, the law made no requirement that the agents report who had provided the funds or how much each contributor had given. Adding to the bill's ineffectiveness was the lack of an effective enforcement mechanism. It was up to citizens to investigate and pursue candidates who failed to fully disclose their expenditures.<sup>52</sup> Without any effective sanctions for non-compliance, this first Canadian foray into the world of campaign finance was doomed to have little effect on political financing practices.

Further reforms occurred in 1891 and 1908 with amendments to the *Dominion Elections Act*. Again, the impetus was political scandal. In 1891, a Conservative MP, Thomas McGreevy, was accused of accepting contributions from contractors in Quebec in exchange for government contracts. The Toll-Gating Scandal, as it became known, led

---

<sup>51</sup> Heather MacIvor, "Shining a Harsh Light on Political Financing," *Policy Options* 26 (June 2005): 35.

<sup>52</sup> Ibid.

the government to amend the Act to forbid assisting a candidate in exchange for a promise of personal benefit.<sup>53</sup> Once again however, the law was impossible to enforce and further amendments were required in 1908—this time partially in response to a scandal south of the border—a factor that has influenced Canadian legislation on more than one occasion.

The parliamentary sessions of 1906 and 1907 were among the most scandal-ridden in Canadian history.<sup>54</sup> Adding to the public's desire for reform were events unfolding around the same time in the United States. As noted in the analysis of American reform efforts, a 1905 investigation in the state of New York discovered that insurance companies had secretly contributed large sums of money to the Republican presidential campaigns of 1896, 1900, and 1904. The scandal, which was heavily publicized in the United States, and to an extent in Canada, combined with the domestic improprieties, caused Parliament to amend the *Dominion Elections Act* once again. This time, the legislation was expanded to prohibit corporate donations to candidates. However, since political parties remained immune from the legislation, there was no way to prevent parties from simply channeling business contributions to their candidates. Although the ban on corporate donations to candidates was extended to labour unions in 1920, these early reform efforts were largely ineffective and comprehensive legislation was not forthcoming for fifty years.

Parliament, operating in an atmosphere of political scandal, clearly explains much of the impetus behind early attempts at reform. While this influence no doubt continued

---

<sup>53</sup> Ibid.

<sup>54</sup> Mutch, "The Evolution of Campaign Finance Regulation in the United States and Canada," 77.



to shape later legislation, a new factor had emerged by the 1960s—the problem of rapidly rising campaign costs. In the United States, the arrival of television brought with it a five hundred percent increase in the amount of money spent on political advertising from 1956 to 1968.<sup>55</sup> In Canada too, a drastic increase in the costs associated with political campaigns led many to call for limits on media expenditures. As the *Royal Commission on Electoral Reform and Party Financing* noted in 1991, the central factor behind the appointment of the *Committee on Election Expenses* in 1964—also known as the Barbeau Committee—was the rapidly rising cost of general elections, particularly for the political parties.<sup>56</sup> It is important to note this initial influence when examining reform efforts in both Canada and the United States beginning in the 1960s.

### The Barbeau Committee

In 1964, Prime Minister Lester Pearson's Liberal government appointed a five member special committee to study "the problem of rising election expenditures and make recommendations."<sup>57</sup> Although partially motivated to do so because of the Rivard Scandal, which had implicated a minor official in his government in a plot to free a drug smuggler sought by the United States for extradition, Pearson established the Barbeau Committee at a time when both of the major Canadian political parties were struggling financially. In this respect, it is useful to remember that from 1957 to 1963, four general elections were held in Canada. Although the major parties, the Conservatives and Liberals, were able to raise substantial amounts of money during this period, each

---

<sup>55</sup> Ibid.

<sup>56</sup> Canada, Royal Commission on Electoral Reform and Party Financing. *Reforming Electoral Democracy: Final Report*, (Ottawa, 1991), 2.

<sup>57</sup> Mutch, "The Evolution of Campaign Finance Regulation in the United States and Canada," 79.

subsequent election required increasing funds, due largely to increased spending on television advertisements.<sup>58</sup> Thus, in 1964, primarily to help refill party coffers, politicians and strategists from both parties agreed to establish the Barbeau Committee to investigate possible reforms.

In its final report, issued in 1966, the committee, relying largely on Quebec's experiences with campaign reform, made a number of recommendations "[supporting] the need for some form of control, and limitations on, election expenditures."<sup>59</sup> As a way of limiting election costs, the committee recommended that parties and candidates be prohibited from advertising on television, radio or in print media except during the four weeks immediately preceding election day.<sup>60</sup> Further, the committee recommended a per voter dollar limit for candidate spending on broadcast and print ads. Finally, the committee recommended that all groups other than registered parties and candidates be prohibited from using paid advertisements that directly promoted or opposed a candidate or party during an election. What is interesting to note about this finding is the degree to which the committee drew on American experiences with third party expenditures in issuing their recommendations.

The Barbeau Committee's proposed ban on third party expenditures was rationalized on the grounds that any restrictions on the amount that parties and candidates could spend must be accompanied by a similar prohibition on other groups. Such restrictions were necessary, it was argued, to prevent parties and candidates from turning to third party groups to circumvent the limits placed on them. Explaining the need for

---

<sup>58</sup> Canada, Royal Commission on Electoral Reform and Party Financing. *Reforming Electoral Democracy: Final Report*, 329.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

such a prohibition, the committee referred to American experiences with the issue, stating:

“...the Committee has learned from other jurisdictions that if these [third party] groups are allowed to participate actively in an election campaign any limitations or controls on the political parties or candidates becomes meaningless. In the United States, for example, ad hoc committees such as ‘Friends of John Smith’ or ‘Supporters of John Doe’ commonly spring up to support a candidate or party. Such committees make limitations on expenditures an exercise in futility, and render meaningless the reporting of election expenses by parties and candidates.”<sup>61</sup>

While American experiences with independent expenditures may have informed Canadian decisions on the matter, lawmakers in both countries soon found themselves faced with a similar problem. When Canadian lawmakers, building on the recommendations of the Barbeau and later Chappell Committees, tried to limit third party expenditures in 1974 with the enactment of the *Election Expenses Act*, they soon ran into the same problem Congress, which coincidentally had included similar restrictions the same year in the 1974 FECA amendments, had run into—the courts began to rule in favour of proponents of free speech who seized upon the regulations as a violation of their rights.

Having only amended the *Canada Elections Act* in 1970 to provide for the registration of political parties for the first time, Parliament, concerned with rising

---

<sup>61</sup> Ibid. 327.

campaign costs, appointed the Chappell Committee in 1970 to consider amendments to the *Canada Elections Act*.

Building upon the recommendations of the Barbeau Committee, the Chappell Committee recommended a more comprehensive approach to spending limits, designed to combat the increasing cost of elections. In its final report, issued in 1971, the committee endorsed most of the Barbeau Committee's recommendations, while adding demands that both parties and candidates be subject to spending limits. The committee also concluded that any limits should apply to all "election expenditures," as opposed to only advertising expenditures.<sup>62</sup> Based on these recommendations, Parliament introduced *Bill C-211* in May 1972. While the legislation was never adopted, its introduction and content demonstrated that many members of parliament, despite the wishes of senior party organizers and executives, recognized the need for comprehensive reform.

### The Election Expenses Act

Parliament's adoption of the *Election Expenses Act* in 1974 was the result of a combination of circumstances that, taken together, provided an ideal environment for reform to take place. As has already been mentioned, rising campaign costs explain part of Ottawa's newfound interest in campaign finance during the 1960s and early 1970s. In addition however, changes in the partisan balance in Parliament in 1972, made comprehensive reform much more likely to succeed. In 1972, Conservative gains in Parliament returned the Liberals to power with a minority government dependent on the

---

<sup>62</sup> Canada, Royal Commission on Electoral Reform and Party Financing. *Reforming Electoral Democracy: Final Report*, 330.

NDP for a parliamentary majority. As the legislative session progressed, NDP demands for reform inched the Trudeau government closer to action until a political explosion south of the border made reform a political necessity.

By 1974, American investigations into the Watergate scandal had uncovered a series of improprieties linked to the Nixon White House. The extensive media coverage the scandal received on both sides of the border provided further impetus to Canadian policymakers to finally enact comprehensive campaign finance reform. In fact, if one examines the parliamentary debate on the bill, it is interesting to note the number of times members of parliament refer to the Watergate investigations. NDP MP Les Benjamin (Regina – Lake Centre) commented on the scandal's impact on the bill, stating:

“I have remarked, as have others, during the past several months, about the strange and sudden interest there is in supporting full and open politics and the financing thereof by people in very strange places. Only since Watergate have some people in this country finally realized that the people will no longer stand for the kind of thing that has taken place in Canadian politics over the past 100 or more years. I submit that the tragedy is that it took something that happened in another country to bring this to a head in Canada.”<sup>63</sup>

While Mr. Benjamin may have provided some of the harshest words regarding the government's sudden willingness to enact the *Election Expenses Act* after Watergate, he was by no means alone in his observations. In fact, members from all the major parties made reference to Watergate during deliberations on the bill.<sup>64</sup>

<sup>63</sup> Canada, Parliament, House of Commons, *Debates*, 29<sup>th</sup> Parl., 10 July 1973, 5482.

<sup>64</sup> Mutch, “The Evolution of Campaign Finance Regulation in the United States and Canada,” 79.

The *Election Expenses Act* featured three important objectives. First, it sought to reaffirm public confidence in elections by increasing the transparency of the campaign practices of parties and candidates. This objective was achieved by extending strict disclosure and reporting requirements for candidates to political parties. Again, the fact that such requirements were only belatedly applied to parties in 1974 is significant.<sup>65</sup> Second, the Act sought to promote fair electoral competition by limiting the advantage of wealth in political campaigns. This was the rationale behind the bill's provisions for public funds to subsidize the election costs of candidates and political parties.<sup>66</sup> Finally, tied to this desire to limit the advantage of wealth, but also linked to the need to control increasing campaign costs, the act established a number of spending restrictions which included overall limits on the "election expenses" of both candidates and parties. These limits were directly tied to the number of voters in a given riding whereby, for instance, a candidate could spend \$1.00 for each of the first 15,000 voters, and a decreasing amount for any further voters.<sup>67</sup> Similar limits were also applied to party expenditures.

In addition to these three main objectives, the act established rules governing the use of media broadcasting by candidates and parties.<sup>68</sup> Finally, and most controversially, the legislation set limits on the amount that other individuals and groups could spend during an election. It is the Act's treatment of these independent expenditures which require further analysis.

---

<sup>65</sup> Jennifer Smith and Herman Bakvis, "Changing Dynamics in Election Campaign Finance: Critical Issues in Canada and the United States," *Policy Matters* 1 (July 2000): 6.

<sup>66</sup> *Ibid.*

<sup>67</sup> Canada, Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy: Final Report*, 330.

<sup>68</sup> Smith and Bakvis, "Changing Dynamics in Election Campaign Finance," 6.

One of the most significant provisions included in the *Election Expenses Act* was an amendment to what was then *Section 70.1* of the *Canada Elections Act*. This amendment prohibited individuals and groups from incurring expenses during elections “to directly promote or oppose candidates or parties,” except if authorized by the official agent of a candidate or party (in which case the spending would be counted against the election expenditure limits of the candidate or party concerned).<sup>69</sup> However, included in the legislation was an important escape clause allowing interest groups to incur expenses in order to promote or oppose a candidate or party if they could establish that they had acted in “good faith” in order to gain support for their views on an issue of public policy.<sup>70</sup> This so-called “good faith” clause created a legislative and regulatory loophole allowing interest groups to incur expenses if involved in issue advocacy rather than partisan advocacy. In short, groups could engage in issue advocacy, whereby a group might advocate a position on a specific policy, so long as it did not stray into partisan advocacy, where a group advocates for a specific party or candidate. Not surprisingly, within just five years of the bill’s passage, the Chief Electoral Officer noted that the bill’s provisions on independent spending were inadequate and could potentially undermine the effectiveness of the spending limits for candidates and parties.

In 1983, Parliament responded to concerns regarding independent expenditures by passing *Bill C-169*, which removed the “good faith” clause from the *Canada Elections Act*.<sup>71</sup> For a short period of time, interest groups were prohibited from spending to

<sup>69</sup> Canada, Royal Commission on Electoral Reform and Party Financing. *Reforming Electoral Democracy: Final Report*, 331.

<sup>70</sup> B. Tanguay and B. Kay, “Third Party Advertising and the Threat to Electoral Democracy in Canada: The Mouse that Roared,” *International Journal of Canadian Studies* 17 (Spring 1998): 60.

<sup>71</sup> *Ibid.*

promote or oppose candidates or parties. However, soon after the bill's introduction, one interest group—the National Citizens' Coalition (N.C.C.)—challenged the legislation on the grounds that the prohibition constituted a violation of the freedom of expression guaranteed by the newly created *Charter of Rights and Freedoms*. In contrast to the American jurisprudence in this area, which has hinged on interpretations of the First Amendment, Canadian court cases, beginning with the 1984 N.C.C. case, have focused on the Charter's "reasonable limits clause." According to this doctrine, the rights and freedoms guaranteed by the Charter are subject to "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."<sup>72</sup> In short, the N.C.C. and other groups have had to prove that the legislation in question infringes upon their guaranteed rights and freedoms, while the government has been forced to show how the infringement is justified under the "reasonable limits" clause. To gain an appreciation for how Canadian campaign finance laws have dealt with the issue of independent expenditures, a brief analysis of these cases is required.

Responding to Parliament's decision to remove the "good faith" clause from the *Canada Elections Act* in 1983, the N.C.C. took the government to court on the grounds that the prohibition on third party election spending violated the right to freedom of expression. In his decision, Justice Donald Medhurst of the Alberta Court of Queen's Bench—a lower provincial court—ruled that the government had not demonstrated the justification for limiting the freedom of expression of individuals or groups during elections to the degree provided for by the amended *Section 70.1*.<sup>73</sup> Despite the fact that

---

<sup>72</sup> Ibid.

<sup>73</sup> Canada, Royal Commission on Electoral Reform and Party Financing. *Reforming Electoral Democracy: Final Report*, 331.



the ruling only applied in Alberta, the federal government chose not to appeal the ruling, handed down on the eve of the 1984 federal election. At the same time, the Chief Electoral Officer decided not to enforce third party spending restrictions nationwide. As a result, groups were able to participate in the federal elections of 1984 and 1988 without any legal impediments on spending. The 1988 “Free Trade Election,” which hinged on the issue of free trade with the United States, was particularly important in demonstrating the degree to which the Alberta court’s decision, until finally reversed in 2004, legitimized third party expenditures in Canadian elections. While the role of such groups in subsequent elections is beyond the scope of this paper, concerns regarding the influence of interest groups in election campaigns are important to keep in mind when examining the factors behind the appointment of the *Royal Commission on Electoral Reform and Party Financing*—the Lortie Commission—in 1989.

Following the 1988 federal election, the Conservative Government appointed the *Royal Commission on Electoral Reform and Party Financing*, chaired by Pierre Lortie. Formed in 1989, the commission examined a number of election issues, including electoral and campaign finance reform. For the purposes of this paper, the commission’s findings regarding independent expenditures are most important. Commenting on the lessons of the 1988 election, the commission found that: “...the experience of the 1988 general election clearly demonstrates [that] the gaping hole in [the] existing framework in relation to independent expenditures is patently unfair.”<sup>74</sup> As a result, in its final report, issued in 1991, the commission recommended that Parliament revisit the issue of third

---

<sup>74</sup> Ibid. 328.

party spending in an attempt to prevent restrictions on party and candidate spending from becoming irrelevant.

Acting on the recommendations of the Lortie Commission, Parliament introduced *Bill C-114* in 1993. This time the bill did not prohibit third party spending entirely, but instead set a limit of \$1,000.<sup>75</sup> Just as it had done in response to similar restrictions in 1984, the N.C.C. took the government to court. In *Somerville v. Canada*, the Alberta Court of Queen's Bench once again ruled that the restrictions on third party expenditures were unconstitutional. Because the ruling was upheld by the Alberta Court of Appeal in June 1996 and was not appealed to the Supreme Court, the ruling stood for seven years until Parliament once again tried to regulate the election activities of interest groups in 2000.

In September 2000, the Liberal government enacted *Bill C-2* which repealed and replaced the *Canada Elections Act*. Among the bill's provisions were limits on the amount of money third parties could spend on election ads. In *Section 350.1*, the Act stipulated that "a third party shall not incur election advertising expenses of a total of more than \$150,000 during an election period in relation to a general election."<sup>76</sup> Adding to the restriction, the bill stated that "not more than \$3,000 of the total amount... shall be incurred to promote or oppose the election of one or more candidates in a given electoral district."<sup>77</sup> In short, the legislation sought to limit the impact of third party spending in any one riding by forcing interest groups to spread their advertisements across several

<sup>75</sup> "Regulation of Election Activities by "Third Parties": Overview and Statements by the Chief Electoral Officer," 27 Aug. 2004.

<<http://www.elections.ca/content.asp?section=pol&document=thiinf&dir=thi&lang=e&textonly=false>> (5 Jul. 2006).

<sup>76</sup> *Canada Elections Act*, Bill C-2, As Passed May 31, 2000 (Canada, 36th Parl., 2<sup>nd</sup> sess.)

<sup>77</sup> Ibid.

ridings, provinces, or even the country. Additionally, the Act included registration and reporting requirements for third parties. *Section 352* provided that “a third party shall identify itself in any election advertising placed by it and indicate that it has authorized the advertising.”<sup>78</sup> The bill further stipulated that groups register immediately after incurring \$500 or more in advertising expenses.<sup>79</sup> By finally dealing with the issue of interest group election spending, it was up to the courts to decide whether or not the legislation was constitutionally valid.

Before *Bill C-2* came into effect, the N.C.C., this time led by Stephen Harper, once again challenged the legislation’s third party provisions. On 29 June 2001, the Alberta Court of Queen’s Bench ruled that *Section 350*’s spending limits, as well as provisions designed to prevent groups from colluding to circumvent these limits, were unconstitutional. However, this time the Supreme Court of Canada did not stay silent on the issue. On 18 May 2004, the court ruled that the provisions on third party registration and election advertising were constitutional. Although the recent *Bill C-24 (2003)* also includes provisions regarding interest group spending, the point is such expenditures are now subject to campaign finance regulation in Canada, unlike the situation that existed throughout the 1980s and 1990s.

### Conclusion

While the preceding analysis no doubt illustrates the complex, albeit colourful, nature of campaign finance reform in Canada and the United States, it also highlights a

---

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

number of patterns that emerge from this legislative odyssey. Three clear themes span the legislative histories of both nations, offering a useful basis for comparison as well as a convenient point to conclude our analysis of all but the most recent reform efforts. First, legislation in both countries has often been at least partially a response to political scandal. Second, attempts at reform have often resulted in consequences unintended by lawmakers. Finally, legislation only tells part of the story. The courts in both countries, as well as other institutions, have played an important role in interpreting the law. One may assume that one or all of these three aspects will figure prominently in the analysis of recent legislation which follows.

The history of campaign finance regulation reads like the story of an emergency response unit in an earthquake-prone region. In between crises, lawmakers are unlikely to be very busy, showing little interest in reform. However, when crises do occur politicians suddenly spring into action, determined to “fix” the problem. In Canada and the United States, not only have demands for reform been strongest after scandals, chances for legislative action have also been the highest following cases of improprieties.

While the earliest American reform efforts may have been a response to the perceived corrupting nature of the assessment system, by 1910 scandal had become an important impetus for reform. Both the 1910 and 1925 versions of the *Federal Corrupt Practices Act* were motivated in part by improprieties exposing the corruptive influence of large corporate donations. Likewise, Watergate was clearly the most important factor behind the FECA reforms of the 1970s. While the most recent *Bipartisan Campaign Reform Act* may have been the result of a realization by lawmakers and the public that the regulatory framework established by FECA had become obsolete over the years, the

shocking details uncovered during investigations into the 1996 federal election provided lawmakers with a necessary incentive to act.

Scandal has figured just as prominently in Canadian reform efforts. In 1874, the country's first campaign finance law was enacted in the aftermath of the Pacific Scandal. Both the 1891 and 1908 amendments to the *Dominion Elections Act* were also motivated by scandal. What is interesting to note about the Canadian experience however is the degree to which Canadian lawmakers have been influenced by events south of the border. The 1908 amendments were partially a response to the publicity surrounding the 1905 New York state investigation into the campaign practices of the American insurance industry. The testimony of Canadian lawmakers during debate on the *1974 Election Expenses Act* reveals a similar, if not stronger, relationship with Watergate. And in a manner quite like the most recent American legislation, *Bill C-24 (2003)* emerged in the aftermath of the Sponsorship Scandal. Clearly, this influence is important to note if one is to gain an appreciation for the motivation and consequences of recent and future legislation. By understanding this pattern, it is possible to better appreciate why legislation, often enacted in a rush in the aftermath of a scandal, might contain a number of loopholes, leading to serious unintended consequences.

Another recurring theme of campaign finance reform is the degree to which legislation has led to consequences unintended by lawmakers. While numerous laws in both countries could be cited to illustrate this tendency, the examples of PACs and soft money in the United States are particularly useful. Both phenomena grew out of or were encouraged by often obscure provisions in otherwise solid legislation. By trying to prevent one problem—the solicitation of contributions from federal employees and union

treasury funds, Congress created another—the use of political action committees. Encouraging PAC formation further were otherwise minor provisions included in the 1971 and 1974 FECA. Similarly, the explosion of soft money during the 1990s was partially a result of regulations included in the 1979 FECA, allowing state and local parties to underwrite voter registration and get-out-the-vote drives on behalf of presidential campaigns without financial limits.

Canadian legislation has also displayed unpredicted consequences. When lawmakers included a “good faith clause” in the *1974 Election Expenses Act*, their goal was to provide groups with the opportunity to publicize their views on specific issues, even if they were not allowed to support candidates or parties directly. However, the inclusion of this provision, and its eventual repeal by Parliament, had the opposite effect, allowing unlimited third party expenditures for nearly three decades. Clearly, it is quite probable that the most recent reforms will also include provisions which encourage campaign practices unforeseen by lawmakers.

A final emerging pattern is the important role played by the courts. Until recently, the courts in both countries have exhibited a tendency to exempt individuals and groups from restrictions on independent expenditures. Beginning in 1976, the U.S. Supreme Court has consistently ruled that independent expenditures are a form of speech protected by the First Amendment. Canadian courts, beginning in 1984, have also been hesitant to restrict the rights of groups to exercise free speech with regards to uncoordinated expenditures, despite the wishes of lawmakers. Although the Supreme Court of Canada eventually upheld third party expenditure limits in 2004, groups had been exempt from such restrictions for nearly three decades. If one adds the critical role played by the

American Federal Election Commission in the rise of both PACs and soft money, it becomes abundantly clear that any comprehensive analysis of reform must include an examination of how court rulings and FEC opinions have affected legislation.

By the time American and Canadian lawmakers enacted new legislation in 2002 and 2003 respectively, nearly three decades had passed since the last round of comprehensive reform. During this time, the regulatory framework created by FECA and the *Election Expenses Act* had been made obsolete by developments like soft money, unregulated independent expenditures, and the like. As a result, lawmakers on both sides of the border have recently sought to update campaign finance law to reflect this new reality. The problem is the constant dilemma facing lawmakers historically has been that even the best reform efforts cannot prevent campaign costs from rising over time. This factor, combined with the aim of politicians to get reelected, means that money must come from somewhere. In the past, this situation has always meant that individuals and groups have been able to find loopholes faster than Congress and Parliament have been able to close them. The question for the next chapter is: what gaps have been included in the most recent reforms and how might candidates, groups, and other individuals respond at the grassroots level to meet the never ending demand for campaign funds?

- Table 1: Contribution and Spending Limits for Federal Candidates (House of Representatives)

Type of contribution or expenditure		1974 FECA	Post-2002 BCRA
Personal contributions by a candidate <sup>80</sup>		\$25,000	No limit
Individual contributions	Per election (primary, run-off, special, g.e.)	\$1,000	\$2,100 <sup>81</sup>
	Aggregate limit	\$25,000 per year	\$37,500 per year
Corporate & union contributions (soft money)		No limit	Prohibited
PAC contributions	Per election, per candidate	\$5,000	\$5,000
	Aggregate limit to all candidates	No limit	\$57,500 per year
Contributions from National Party Committees		\$10,000	\$5,000
Expenditure limit for House campaign <sup>82</sup>		\$70,000	No limit
Independent expenditure limit <sup>83</sup>		\$1,000	No limit

<sup>80</sup> Struck down as unconstitutional by Supreme Court in Buckley v. Valeo (1976)

<sup>81</sup> Indexed to inflation

<sup>82</sup> Struck down as unconstitutional by Supreme Court in Buckley v. Valeo (1976)

<sup>83</sup> Struck down as unconstitutional by Supreme Court in Buckley v. Valeo (1976)



• Table 2: Contribution and Spending Limits for Candidates for Parliament

Type of contribution or expenditure		1974 Election Expenses Act	Bill C-2 (2000)	Bill C-24 (2003)
Individual contribution <sup>84</sup>		No limit	No limit	\$5,000
Corporate or union contribution		No limit	No limit	\$1,000
Candidate expenditure limit	Decreasing per voter amount (\$1.00 for first 15,000 voters, less for voters after)	\$27,744 avg.	Calculating procedure unchanged	Calculating procedure unchanged
Party expenditure limit	Per voter amount (\$0.30)	\$4,459,249 avg.	Calculating procedure unchanged	Calculating procedure unchanged
Independent expenditure limit		No limit <sup>85</sup>	\$150,000 (\$3,000 per riding limit)	\$150,000 (\$3,000 per riding limit)
Publicly funded allowance to political parties		N/A	N/A	\$1.75 per vote

<sup>84</sup> Indexed for inflation

<sup>85</sup> Although the 1974 Act sought to prohibit independent expenditures, court decisions and the federal government's refusal to enforce the prohibition allowed groups to spend unlimited amounts until the Supreme Court legitimized Bill C-2's (2000) \$150,000 limit in 2004

## CHAPTER 2: BILL C-24 AND THE BCRA: THEIR INTENDED EFFECTS

### Background to McCain-Feingold

The immediate story of the *Bipartisan Campaign Reform Act*, often called McCain-Feingold after its two principal Senate sponsors, began after the 1996 federal elections. During the election, President Clinton, running against a new Republican majority in Congress, initiated an unprecedented advertising campaign paid for by political party soft money.<sup>86</sup> By election day, the old familiar issues of PACs and rising campaign costs had been replaced by the new threat of soft money and candidate-specific issue ads. Following a 1997 Senate investigation into questionable fundraising practices by the Democratic Party, Congress began to once again consider campaign finance reform.

Soft money is money given to the political parties rather than their candidates. Unlike hard money, which is subject to federal regulations and therefore more difficult to raise, soft money, prior to 2002, was subject neither to contribution limits nor the usual prohibitions on corporate, labour, or foreign support. Although first appearing on the political scene in the 1970s, it was during the 1996 election that soft money became a major issue in elections. Because a number of federal courts had ruled that the FECA restrictions only applied to ads using express words like “vote for,” “elect,” or “defeat,” party committees and other groups began to create broadcast ads that featured specific federal candidates without the so-called “magic words” that would trigger regulation.<sup>87</sup> In 1996, campaign advisors to President Clinton recognized that soft money, acceptable if

---

<sup>86</sup> Michael Malbin, ed. *Life After Reform: When the Bipartisan Campaign Reform Act Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 4.

<sup>87</sup> Malbin, *Life After Reform*, 28.

paying for certain “party-building activities,” could be used to pay for advertisements that featured the president, along with his issues. In mid-1995, in advance of the presidential nomination contest, the Democratic National Committee (DNC) transferred millions of dollars to state party committees and spent more than \$40 million to pay for issue ads promoting President Clinton’s re-election.<sup>88</sup> Although the strategy was eventually emulated by the GOP, it was particularly useful for the Democrats because President Clinton, as the incumbent, could begin campaigning early on while his eventual opponent, Bob Dole, was still fighting a lengthy and costly primary battle. While this early and aggressive ad campaign no doubt contributed to the president’s successful re-election bid, it was soon discovered that some of the methods used to raise this funding were questionable, if not outright illegal.

During the 1996 elections the national parties spent roughly \$271 million in soft money. This staggering amount was eclipsed in 2000 when the parties spent nearly a half billion dollars—all but destroying the spending limits for publicly funded presidential candidates, rendering contributions limits meaningless, and making the ban on contributions from union and corporate treasuries irrelevant. However, the 1996 election was significant because of the ways in which soft money was procured. By 1997, questions about the fundraising practices of the Democratic Party, and the DNC in particular, had resulted in investigations by the Justice Department, the FEC and both houses of Congress. The Senate investigation, chaired by Senator Fred Thompson (R-TN), brought to light a number of fundraising techniques that soon provided legislators with a new impetus for reform.

---

<sup>88</sup> Ibid.

One of the most troubling aspects of soft money fundraising during the 1996 campaign was the size of some contributions. Despite FECA provisions limiting individual contributions to \$1,000, a number of wealthy donors were able to contribute hundreds of thousands of dollars to the parties in the form of soft money. In 1994, Charlie Trie, A China-born U.S. citizen raised in Taiwan and longtime friend of President Clinton, donated \$100,000 to the DNC. This amount paled in comparison to the \$645,000 he contributed or raised from 1994 to 1996, most of which came from his Asian business partner, Ng Lap Seng, a Chinese citizen with reputed links to organized crime in Macao and an adviser to the Chinese government.<sup>89</sup> In fact, during the 1996 presidential campaign, twenty people made contributions of at least a quarter million dollars; by 2000 the figure had increased to 78.<sup>90</sup>

While the size of soft money contributions raised obvious concerns about buying access to key Democratic Party figures, the president included, the sources of much of this funding were also troubling. Following the election, and in the wake of the growing fundraising controversy, the DNC was forced to return \$2,825,000 in illegal or improper contributions.<sup>91</sup> Much of this money was found to have been donated by foreigners.

In the quest for ever increasing amounts of soft money, the White House itself also became a vehicle for fundraising. According to the Senate investigation, perks such as access to senior decision makers, “overnights” at the White House, Presidential coffees at the White House, including in the Oval Office, flights on Air Force One, seats in the President’s box at Kennedy Center, and use of the White House pool and tennis courts,

<sup>89</sup> Senate Governmental Affairs Committee, 1997 Special Investigation in Connection with 1996 Federal Election Campaigns: Final Report, 105<sup>th</sup> Cong., 1st sess., 1997, 19.

<sup>90</sup> Derek Willis, “Debating McCain-Feingold,” *CQ Weekly* 59 (10 Mar. 2001): 524-527.

<sup>91</sup> 1997 Special Investigation in Connection with 1996 Federal Election Campaigns: Final Report, 1997, 6.

were all for sale to the highest bidder.<sup>92</sup> In addition, it was later uncovered that the vice president had made approximately forty-five phone solicitations from inside his White House office, despite federal laws prohibiting the practice, raising as much as \$800,000 for the DNC.<sup>93</sup> When publicized by the national media, the headlines generated by the fundraising controversy provided reformers with much needed ammunition, as Congress once again took up the issue of campaign finance reform.

### Legislative History

The *Bipartisan Campaign Reform Act of 2002* originated from a bill introduced in the Senate following the 1996 election by Senators John McCain (R-AZ) and Russell Feingold (D-WI). A companion bill was introduced in the House under the sponsorship of Representatives Christopher Shays (R-CT) and Martin Meehan (D-MA). Both plans focused on eliminating soft money and restricting the funding of candidate-specific issue advertising. However, the bill was defeated by successive GOP filibusters in both the 105<sup>th</sup> and 106<sup>th</sup> Congresses. Facing strong opposition in the House of Representatives, advocates of reform feared the bill might never be signed into law. However, by 2001, changing circumstances had improved chances for reform.

Following the 2000 national elections, congressional opposition to McCain-Feingold began to show signs of weakening. One of the bill's principal sponsors, John McCain, surprised many political observers with his strong bid for the Republican presidential nomination against George W. Bush. Many interpreted his success as an

---

<sup>92</sup> Ibid.

<sup>93</sup> Ibid.

indication that campaign finance reform was an important issue among voters.<sup>94</sup> McCain pressed the issue throughout the general election period and even campaigned on behalf of dozens of congressional candidates who pledged to support reform if elected. The election also produced a turnover in the Senate, as the Democrats became the majority party with the support of independent Senator Jim Jeffords. In order to take advantage of this favourable political environment, when Congress convened in 2001, the Senate placed reform high on the agenda. Early in the new session, the Senate held a wide-ranging, open debate that produced a number of amendments to the original proposal.<sup>95</sup> On 2 April 2001, the amended proposal easily passed in the Senate by a vote of 59-41; however, it faced more determined opposition in the House.

By the time debate began on the House version of McCain-Feingold, the political environment had once again improved chances for reform. Held over three days in early February 2002, the House debate took place amid national coverage of the Enron bankruptcy and numerous other corporate scandals. Despite attempts by the Republican leadership to necessitate a conference committee that would have been composed of many of the leading opponents of the bill, the House passed Shays-Meehan on 14 February 2002 by a 240-189 vote margin. Because the House and Senate versions differed slightly, and to avoid a conference committee that would likely derail the legislation, the Senate voted on the House version on 20 March 2002, approving the bill by a vote of 60-40.<sup>96</sup> Refusing to exercise his veto power, President Bush quietly signed the bill into law on March 27<sup>th</sup> without the kind of public signing ceremony that usually

<sup>94</sup> Malbin, *Life After Reform*, 34.

<sup>95</sup> Corrado, *The New Campaign Finance Sourcebook*, 37.

<sup>96</sup> "Introduction to Bipartisan Campaign Reform Act of 2002 (BCRA)" n.d.

<<http://www.citizen.org/congress/campaign/legislation/bcralaw/articles.cfm?ID=15196>> (13 Aug. 2006).

accompanies the passage of major legislation. For the first time in nearly a quarter century, Congress had passed campaign finance reform. As with previous reforms, it would now be up to the U.S. Supreme Court to decide whether or not the legislation was acceptable on constitutional grounds.

#### Major Provisions of McCain-Feingold

Although an important piece of legislation, even the most ardent supporters of BCRA do not claim the bill represents comprehensive reform. As Senator John Kerry (D-MA) stated during congressional debate on the legislation:

The bill we vote on today is not sweeping reform... Instead, [it] simply restores, to a certain degree, the campaign finance reform laws that we enacted more than 25 years ago.<sup>97</sup>

The bill does nothing to stop the ever-increasing cost of elections, nor does it apply to media such as mail, telephone, or the Internet. Further, the bill has no effect on advertisements that promote a candidate's issues or use a candidate's theme language without naming the candidate specifically. And communications that fall outside of the 30- or 60-day time window remain largely unregulated.<sup>98</sup> What the bill does, as Senator Kerry noted, is attempt to restore what had once been in effect under FECA. The legislation seeks to restore contribution limits by closing the political party soft money loophole that had by 1996 rendered such limits obsolete. It also attempts to apply disclosure requirements, as well as corporate and labour spending restrictions, to

---

<sup>97</sup> Cong. Rec., 107<sup>th</sup> Cong., 3 Apr. 2001: 3334-3335.

<sup>98</sup> Malbin, *Life After Reform*, 45.

“electioneering” speech by individuals and groups aside from parties and candidates.<sup>99</sup>

While by no means revolutionary, the bill should have a drastic impact on campaigning at the grassroots level.

Most descriptions of McCain-Feingold focus on the bill’s two key pillars. First, it prohibits the raising and spending of soft money at the national level. *Section 101* of the Act amends the 1971 FECA by adding the following provision:

A national committee of a political party... may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.<sup>100</sup>

Effective 6 November 2002, federal officeholders, candidates, and the national parties are prohibited from raising or spending soft money. The only exception to this provision is that an entity may contribute up to \$10,000 in soft money to each state and local party organization, if permitted by state law, if the money is used solely for voter mobilization.<sup>101</sup> These so-called “Levin funds,” named after the senator who proposed them, were part of a congressional compromise designed to ensure state parties would still be able to carry out voter registration and get-out-the-vote (GOTV) drives during coinciding state and federal elections.

The second pillar of BCRA deals with issue ads, which figured so prominently in the 1996 and 2000 elections. Anticipating that a ban on soft money would encourage donors to shift their contributions to PACs and other organized groups who would seek to

<sup>99</sup> Ibid, 7.

<sup>100</sup> House, *Bipartisan Campaign Reform Act of 2002*, 107th Cong., 1st sess., H.R. 2356.

<sup>101</sup> “Introduction to Bipartisan Campaign Reform Act of 2002 (BCRA)” n.d.

<<http://www.citizen.org/congress/campaign/legislation/bcralaw/articles.cfm?ID=15196>> (13 Aug. 2006).



avoid contribution limits and disclosure requirements by funding issue advertisements, McCain-Feingold sought to extend the regulatory framework by redefining what qualifies as a campaign ad.<sup>102</sup> Prior to BCRA, a communication was only subject to regulation if it used “magic words” expressly advocating the election or defeat of a candidate. McCain-Feingold changed this by expanding the definition beyond the “magic words” of *Buckley v. Valeo*. Section 201 of the Act defines an “electioneering communication” as:

...Any broadcast, cable, or satellite communication which...refers to a clearly identified candidate for Federal office [and] is made within... 60 days before a general election... or 30 days before a primary election... [that is] targeted to the relevant electorate.<sup>103</sup>

An ad is “targeted to the relevant electorate” if the communication “can be received by 50,000 or more persons... in the district the candidate seeks to represent, in the case of a candidate for Representative.”<sup>104</sup> By replacing Buckley’s “magic words” with this new “bright-line standard,” McCain-Feingold greatly increases the scope of communications subject to disclosure requirements and contribution and source limitations. Like the ban on soft money, the increased regulation is meant to prevent corporations and labour unions from skirting contribution limits and disclosure requirements by funneling money into unregulated forms of advocacy. As a result, BCRA prohibits direct or indirect funding by unions or corporations for “electioneering advertising” fitting the Act’s criteria.<sup>105</sup> However, it is important to note that “electioneering communications” does

<sup>102</sup> Corrado, *The New Campaign Finance Sourcebook*, 42.

<sup>103</sup> H.R. 2356, 107th Cong., 1st sess.

<sup>104</sup> *Ibid.*

<sup>105</sup> Malbin, *Life After Reform*, 44.

not include direct mail, voter guides, telephone banks, or the Internet, and it will be interesting to see if these mediums grow in importance as a result.

In addition to expanding the scope of communications covered by Federal law, the Act also requires that advertisers clearly identify the party responsible for the content of an advertisement. The now familiar “My name is John Doe, and I approved this message” disclaimer, which follows all candidate-sponsored messages, as well as similar messages by other groups, is included in *Section 311* of the Act.

While the most important provisions of BCRA are the ban on party soft money and the restrictions on issue advertising, the Act also includes several other changes that will no doubt affect how campaigns are run in the future. For instance, to partially compensate for the loss of soft money, the legislation has increased the amount an individual can contribute to a federal candidate from \$1,000 to \$2,000 per election (primary, general, and runoff). Because the previous limit had not been updated since 1974, inflation had eroded much of the amount’s worth. To partially restore this value, the new \$2,000 limit has been indexed for inflation. In addition, individuals may now contribute up to \$25,000 per year to a national party committee, an increase of \$5,000. Similar limits on donations to state party committees have also been adjusted from \$5,000 to \$10,000 annually. Finally, BCRA has left the limit for PAC donations at \$5,000 per election, with no adjustments for inflation. These limits are also subject to overall aggregate limits. An individual may contribute up to \$37,500 per year to candidates and \$57,500 per year to PACs. If nothing is given to PACs, this \$57,500 may

go to parties.<sup>106</sup> Like the individual contribution limits, the aggregate limits are also indexed for inflation.

Reflecting the important role the 1996 election played in necessitating the new legislation, McCain-Feingold also includes two provisions designed to prevent against the types of abuses uncovered during numerous investigations. *Section 302* of the Act prohibits fundraising on federal property stating:

It shall be unlawful for an individual who is an officer or employee of the Federal government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value... while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.<sup>107</sup>

The provision applies not only to Federal elections but also state and local contests. In addition, McCain-Feingold has strengthened the already existing ban on foreign donations by prohibiting foreign soft money given to the political parties.<sup>108</sup>

### *McConnell v. FEC*

As was the case with previous attempts at reform, soon after being signed into law the constitutionality of BCRA was quickly called into question. Within one month of the passage of the new legislation, 84 plaintiffs—including Senator Mitch McConnell (R-KY), a key opponent of the bill, the AFL-CIO, and the Republican Party—filed 11

<sup>106</sup> Malbin, *Life After Reform*, 11.

<sup>107</sup> H.R. 2356, 107th Cong., 1st sess.

<sup>108</sup> Corrado, *The New Campaign Finance Sourcebook*, 60.

different lawsuits challenging every provision of the Act.<sup>109</sup> All of the lawsuits were consolidated into one case, *McConnell v. FEC*. Recognizing the law would inevitably be challenged in court, the sponsors included in *Section 403* a provision mandating an “expedited” court review process whereby court challenges to the bill would all be filed in the US District Court for the District of Columbia. After being reviewed by a three-judge panel, the ruling would be directly subject to review by the Supreme Court. After the three-judge panel issued a mixed ruling on 2 May 2003, the Supreme Court ended its summer vacation early in order to hear the case before the 2004 federal elections. In a landmark 5-4 decision, the majority of the court upheld all but two provisions of the law: the ban on campaign contributions from minors, and the requirement that parties choose between making either independent expenditures or coordinated expenditures on behalf of candidates.<sup>110</sup> With regards to BCRA’s two main pillars, the court found:

The statute’s two principal, complementary features—Congress’ efforts to plug the soft money loophole and its regulation of electioneering communications—must be upheld in the main.<sup>111</sup>

Because the bill’s congressional sponsors had anticipated that the courts might invalidate some provisions, a “severability” clause had been included. *Section 401* states that:

If any provision of this Act... is held to be unconstitutional, the remainder of this Act... shall not be affected by the holding.<sup>112</sup>

<sup>109</sup> “*McConnell v. FEC: Litigation Over the Bipartisan Campaign Reform Act of 2002*” n.d. <<http://www.citizen.org/congress/campaign/legislation/bcralaw/articles.cfm?ID=8521>> (16 Aug. 2006).

<sup>110</sup> “Introduction to Bipartisan Campaign Reform Act of 2002 (BCRA)” n.d. <<http://www.citizen.org/congress/campaign/legislation/bcralaw/articles.cfm?ID=15196>> (13 Aug. 2006).

<sup>26</sup> *McConnell v. FEC*, 540 U.S. 93 (2003).

<sup>112</sup> H.R. 2356, 107th Cong., 1st sess.

As a result, federal candidates, parties, officeholders and other individuals and groups must now contend with the new regulatory framework established by BCRA. The question is how will the Act affect fundraising at the grassroots level?

### Hypothesized Effects of BCRA

Because of the timing of the Supreme Court's decision in *McConnell v. FEC*, the first election to take place under the new legislation was the 2004 Federal election. With midterm elections occurring in November 2006, it is now possible to gauge some of the short-term effects of McCain-Feingold. One of these effects, already apparent after 2004, is the increasing role of so-called "527" organizations, as a conduit for soft money that had previously gone to the parties.

527 organizations, or "527s," as they are often called, derive their name from the section of the Internal Revenue Service (IRS) tax code that exempts political organizations from income taxes.<sup>113</sup> Groups organized under Section 527 are political organizations for federal tax purposes but not under federal campaign law. This discrepancy is the result of a series of IRS rulings in the late-1990s that greatly liberalized what 527s could do with tax-exempt money.<sup>114</sup> The rulings held that organizations could seek to influence federal elections without being subject to FECA restrictions as long as they did not coordinate their activities with candidates or party committees or expressly advocate the election or defeat of a candidate for federal office.

<sup>113</sup> Casey Dominguez and Kathryn Pearson, "Big Dollars, But How Much Change? An Analysis of Soft Money Donors Post-BCRA," Proc. of the 2005 Annual Meeting of the Midwest Political Science Association. Chicago, Illinois (7-10 April 2005): 4.

<sup>114</sup> Joseph E. Sandler and Neil Reiff, "The '527' Fuss Explained," *Campaigns & Elections* 25 (Aug. 2004): 40.

Emerging as an important force during the 2000 presidential primaries, when a new 527, “Republicans for Clean Air,” paid for ads attacking Senator John McCain, these entities were not required to disclose the names of contributors until Congress passed legislation in June 2000 requiring 527s to report contributions of \$200 or more and expenditures of more than \$500 to any one source annually.<sup>115</sup>

BCRA affects 527 organizations in two important ways. First, the bill prohibits federal lawmakers and candidates from creating 527s to raise money outside the scope of federal election law.<sup>116</sup> Second, the Act’s provision on “electioneering communications” prevents 527 groups from using corporate or union funds to pay for advertisements that mention a federal candidate within 30 or 60 days of a primary or general election and that is targeted to the candidate’s electorate. Despite these changes, 527s are likely to become important players in future elections. This is because under current laws, 527s may receive contributions from any source without limit, except from foreign nationals and foreign companies, leaving them as the logical destination for soft money that previously went to the parties.<sup>117</sup> Further, the prohibition on union- and corporate-funded “electioneering communications” aside, 527s can still use soft money to fund many other forms of communications, including newspaper ads, phone banks, mail, and others.

McCain-Feingold’s ban on corporate and labour soft money means that parties and candidates must alter their fundraising practices if they are to meet the demands of future, increasingly costly campaigns. The most obvious replacement for soft money is hard money, which, thanks to BCRA, can now be donated by individuals to candidates up

<sup>115</sup> Dominguez and Pearson, “Big Dollars, But How Much Change? An Analysis of Soft Money Donors Post-BCRA,” 9.

<sup>116</sup> *Ibid.*

<sup>117</sup> Sandler and Reiff, “The ‘527’ Fuss Explained,” 40.

to a limit of \$2,000 per election. Already, the parties have proven highly adept at increasing hard money contributions. By the end of 2004, the national party committees raised more than \$1.2 billion in hard money—an amount greater than the combined total of hard and soft money raised during the previous election cycle.<sup>118</sup> Part of the increase is no doubt a result of BCRA's higher individual contribution limits. However, much of the increase is a result of a surge in the number of donors, particularly small donors.

Illustrative of the success the national party committees have had in identifying new hard money sources, during the 2004 election cycle, the RNC and DNC raised \$344 million and \$165 million respectively in unitemized gifts (contributions of less than \$200).<sup>119</sup>

This amounts to roughly half of the total soft money collected during the 2000 cycle—all contributed in amounts of less than \$200.<sup>120</sup> Although a heightened interest in the outcome of the 2004 election, with the issue of the Iraq war encouraging more Americans to get involved politically, may explain part of this surge in small contributions, the point is the parties will need increasing amounts of hard money in the future as campaign costs continue to rise.

As the above figures illustrate, the parties and candidates are increasingly exploring new avenues of fundraising among a larger number of donors capable of giving smaller amounts. One of the tools likely to be increasingly used in ferreting out individual contributions is the Internet. Thanks to BCRA, the Internet is an increasingly attractive vehicle for soliciting hard money contributions because of its cost compared to more traditional methods like direct mail. Whereas in the past the parties and candidates

---

<sup>118</sup> Corrado, *The New Campaign Finance Sourcebook*, 167.

<sup>119</sup> *Ibid.* 168.

<sup>120</sup> *Ibid.*

could rely on soft money to pay for expensive direct mail services, this is no longer the case, and relatively cheap technologies like the Internet offer fundraisers many of the same benefits at a fraction of the cost. Most famously, during the 2003 Democratic presidential primary, Howard Dean shattered previous fundraising records raising \$21 million online.<sup>121</sup> Without soft money to pay for expensive tools like direct mail, one might expect candidates to turn to the Internet for more of their hard money needs.

While BCRA has no doubt altered where candidates and parties must focus their fundraising efforts, one constant remains—congressional campaigns are expensive. In the House of Representatives, where officeholders must stand for re-election every two years, the quest for campaign funds is a daily ritual. As soon as one election is successful the candidate must rebuild his or her war chest for the campaign that invariably follows in two short years. The question is will McCain-Feingold, by banning corporate and union soft money, allow politicians to spend more time governing as opposed to fundraising? Or will the bill, by outlawing soft money, force candidates to spend even more time campaigning, aggressively seeking out as many individual hard money contributors as possible? Will the use of new technologies like the Internet lead to more efficient fundraising practices, freeing candidates to spend more time in their home districts? These are some of the important questions that require further examination.

Finally, it will be interesting to see how the role of PACs changes as a result of BCRA. Since the FECA reforms, PACs have often been favoured over, or been used in conjunction with, individual contributions. This is because they allow individuals and groups to contribute larger amounts to candidates, and offer the added benefit of pooled

---

<sup>121</sup> Mark Walsh, "Using the Web the Way Dean Did," *Newsweek*, 23 Aug. 2004, 14.



resources which amplifies the voice of donors. Before McCain-Feingold, PAC and individual contribution limits encouraged PAC formation because individuals could donate up to \$5,000 per election to PACs versus only \$1,000 to candidates. BCRA has closed this gap partially by increasing to \$2,000 the limit on donations to candidates, which has also been indexed to inflation. However, the difference still remains, and it is unlikely PACs, an important player at the congressional level, will decrease in significance any time soon. In fact, one might argue that without the option of soft money, PACs might become even more attractive to donors and candidates alike.

#### Background to Bill C-24

Like the most recent American reforms, the story of Canada's latest attempt at campaign finance reform also begins with a scandal. The Federal Sponsorship Program was created in the wake of the 1995 referendum on Quebec sovereignty. The Liberal government established the program in 1995 to promote federalism by raising Canada's profile in Quebec. Run by the federal Public Works Department, the program dispersed \$282 million from 1996 to 2002, much of it going to Liberal-friendly ad agencies.<sup>122</sup> Suspicions about the program's selection process for awarding contracts first emerged in early spring 2002 when the *Globe and Mail*, under the *Access to Information Act*, discovered that the government had paid the advertising firm Groupaction Marketing \$550,000 for a report that could not be found.<sup>123</sup> This discrepancy forced Prime Minister Jean Chretien to ask the auditor general, Sheila Fraser, to investigate the matter further.

---

<sup>122</sup> "Federal Sponsorship Scandal," *In Depth: Sponsorship Scandal* 19 Jun. 2006.  
 <<http://www.cbc.ca/news/background/groupaction/>> (23 Aug. 2006).

<sup>123</sup> *Ibid.*

In the course of her preliminary investigation, she found enough evidence to warrant a full investigation, including a probe by the RCMP.

In her final report to Parliament, issued in February 2004, Ms. Fraser found that more than \$100 million of taxpayer's money had been paid to a variety of ad agencies in Quebec in the form of fees and commissions for work that produced little or no benefit for Canadians.<sup>124</sup> The report, released after Paul Martin had replaced Chretien as Prime Minister, led to the creation of a public inquiry headed by Justice John Gomery, to investigate how the program had been handled.

The Gomery Inquiry began hearing testimony in September 2005. On February 8<sup>th</sup>, former Prime Minister Chretien appeared before the inquiry. Although he admitted mistakes were made, Chretien argued the program was an important part of the federal government's battle against the separatists. Two days later, Prime Minister Martin was called to testify. This marked the first time since 1873 that a sitting Prime Minister testified before a public inquiry.<sup>125</sup> However, the testimony really heated up when the focus of the investigation shifted to the people responsible for administering the program and the companies that profited from it.

In his final report, issued on 1 February 2006, Justice Gomery uncovered what he described as a "complex web of financial transactions among Public Works and Government Services Canada, Crown Corporations and communication agencies, involving kickbacks and illegal contributions to [the Federal Liberal Party]."<sup>126</sup> In total,

---

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

<sup>126</sup> Canada, Commission of Inquiry Into the Sponsorship Program and Advertising Agencies, *Phase 1 Report*. Ottawa: Public Works and Government Services Canada, 2005.  
<[http://www.gomery.ca/en/phase1report/summary/es\\_full\\_v01.pdf](http://www.gomery.ca/en/phase1report/summary/es_full_v01.pdf)> (31 Aug. 2006).

five agencies receiving sponsorship contracts were found to have regularly channeled money, via legitimate donations or unrecorded cash gifts, to political fundraising activities in Quebec, with the expectation of receiving lucrative government contracts.<sup>127</sup> As a result of testimony presented at the inquiry, three men—Jean Brault, Paul Coffin, and Chuck Guite—were convicted of defrauding the government out of millions of dollars. However, the convictions did not help the governing Liberals. Less than four weeks after the release of Justice Gomery's first report, the opposition parties united in a vote of non-confidence, arguing the Liberals no longer had the moral authority to govern. In the resulting election, the governing Liberals were replaced by the country's first minority government in 25 years, led by the Conservatives.

### Legislative History

It is not a coincidence that *Bill C-24* was introduced following the early revelations surrounding the federal sponsorship program. During the final days of Chretien's prime ministership, after he had long announced he was going to retire, *Bill C-24* was rushed through Parliament and signed into law. Receiving royal assent on 19 June 2003, the law's adoption preceded the release of the auditor general's final report on the sponsorship program by only eight months. The relationship between the timing of the auditor general's investigation and the introduction of C-24 was not lost on many Members of Parliament, who, during debate on the bill, questioned the real impetus behind the legislation. Highlighting the influence of the sponsorship program, MP Ted White (Canadian Alliance—North Vancouver) stated:

---

<sup>127</sup> Ibid.

I think [Prime Minister Chretien] introduced this bill to diffuse a big problem... and that was the problem that we were finding the huge donations from supporters of the Liberal Party of Canada, and those donors subsequently were rewarded with money from the public treasury in the form of very lucrative contracts.<sup>128</sup>

Although the timing of the legislation no doubt raised many eyebrows, several of the bill's provisions also lend credibility to the claim that C-24 was an attempt to immunize the Liberal Party from the political fallout from the sponsorship program. One of the bill's main provisions bans, with minor exceptions, political contributions from corporations and labour unions. Although the ban may have been motivated in part by similar laws in Quebec and Manitoba, it would nonetheless offer at least the appearance of an attempt by the government to limit the types of quid pro quo arrangements uncovered during the sponsorship investigations.

#### Major Provisions of Bill C-24

*Bill C-24* expands the regulation of political campaigns in Canada by amending the *Canada Elections Act* and the *Income Tax Act*. Although a complex piece of legislation, C-24 can be broken down into four simplified parts. First, the bill bans, with minor exceptions, corporate and union donations. Second, it establishes Canada's first individual contribution limits. Third, C-24 expands the existing regulatory framework beyond parties and candidates to include constituency associations, nomination contests, and leadership campaigns. Fourth, the legislation establishes a number of public

---

<sup>128</sup> Canada, Parliament, House of Commons, *Debates*, 37<sup>th</sup> Parl., 2d sess., 9 Jun. 2003.

financing measures designed to offset the loss of revenue caused by the prohibition of corporate and union donations.

In what some have interpreted to be an attempt to deflect criticism related to the federal sponsorship program, *Bill C-24* bans, with minor exceptions, corporate and union contributions. This has been achieved by adding the following to *Section 404* of the *Canada Elections Act*:

No person or entity other than an individual who is a citizen or permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act shall make a contribution to a registered party, a registered association, a candidate, a leadership contestant or a nomination contestant.<sup>129</sup>

Despite this prohibition, the bill includes a minor exception whereby corporations, unions and other entities may make contributions of \$1,000 annually in the aggregate to the registered associations, nomination contestants, and candidates of a particular party.<sup>130</sup>

Note this exception does not allow such entities to donate to a political party or a leadership contestant.

For the first time, *Bill C-24* also limits the amount of money individuals can contribute to political parties and candidates. Individual contributions are now limited to \$5,000 annually in total to each registered party, its electoral district associations, nomination contestants, and candidates.<sup>131</sup> One of the exceptions to this provision is that

<sup>129</sup> An Act to Amend the Canada Elections Act and the Income Tax Act, Bill C-24, As Passed June 19, 2003 (Canada, 37th Parl., 2d sess.)

<sup>130</sup> Anthony Sayers and Lisa Young, "Election Campaign and Party Financing in Canada," *Democratic Audit of Australia*. Sep. 2004

<[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf)> (3 Aug. 2006)

<sup>131</sup> An Act to Amend the Canada Elections Act and the Income Tax Act, Bill C-24, As Passed June 19, 2003 (Canada, 37th Parl., 2d sess.)

a candidate's contributions to his or her own campaign do not count towards the individual contribution limit. Further, individuals are allowed to contribute up to \$5,000 in total to the leadership contestants in a particular leadership contest.

In addition to the ban on corporate and union donations and individual contribution limits, C-24 extends financial scrutiny beyond parties and their candidates to now include constituency associations, nomination contests, and leadership campaigns. By extending registration requirements for parties to constituency associations, the law mandates that a constituency association must register with the Chief Electoral Officer before it can accept contributions and provide goods or services or transfer funds to a candidate, party, or constituency association.<sup>132</sup> Further, the bill extends the *Election Expenses Act*'s spending limits for candidates to nomination contests. In an attempt to control campaign costs, the limit for nomination campaign expenses is now set at twenty percent of the amount allowed under the *Election Expenses Act* in that electoral district during the immediately preceding general election.<sup>133</sup> Finally, the Act applies registration requirements to leadership candidates so that leadership contestants must register with Elections Canada before being allowed to accept or incur expenses.

*Bill C-24* also includes a number of public financing measures that are sure to have a drastic affect on how political campaigns are financed in the future. As Liberal MP Karen Redman (Liberal—Kitchener Centre) stated during debate following the second reading of the bill:

---

<sup>132</sup> An Act to Amend the Canada Elections Act and the Income Tax Act, Bill C-24, As Passed June 19, 2003 (Canada, 37th Parl., 2d sess.)

<sup>133</sup> *Ibid.*

... The virtual elimination of political contributions by corporations and unions, and the placing of limits on large individual contributions would certainly impact the ability of parties and candidates to fund election campaigns... to offset such a possible unintended impact the bill proposes to make up for the fall off in private contributions by increasing the currently existing financial assistance by the Government of Canada to parties and to candidates.<sup>134</sup>

As a result, *Bill C-24* seeks to offset the loss of corporate and union donations by increasing the amount of reimbursements for both candidates and parties. This has been achieved through the creation of an annual allowance to registered political parties, calculated at a rate of \$1.75 (indexed to inflation) for each vote the party received in the most recent general election.<sup>135</sup> To qualify for the allowance, a party must receive at least 2 percent of all votes cast nationally or 5 percent of the total in electoral districts in which it has candidates. Further, the rate of reimbursement for party election expenses has been increased from 22.5 percent to 50 percent. Reimbursement rates for candidates have also been increased. Candidates are now eligible for reimbursement of 60 percent of their election expenses. Prior to *Bill C-24*, this rate was set at 50 percent. To qualify for the reimbursement, a candidate need only obtain 10 percent of the vote in his or her electoral district—a threshold that had been set at 15 percent prior to C-24.<sup>136</sup>

<sup>134</sup> Canada, Parliament, House of Commons, *Debates*, 37th Parl., 2d sess., 20 February 2003.

<sup>135</sup> Anthony Sayers and Lisa Young, "Election Campaign and Party Financing in Canada," *Democratic Audit of Australia*. Sep. 2004

<[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf)> (3 Aug. 2006)

<sup>136</sup> *Ibid.*

### Hypothesized Effects of C-24

By banning corporate and union donations and limiting individual contributions for the first time, C-24 will no doubt alter how political parties and their candidates raise money. Already two elections have been held under the new regulations and while relatively little scholarly attention has yet been devoted to the effects of C-24, we are beginning to see some of the ways in which parties and candidates have modified their fundraising techniques. One would expect that as the parties become more familiar with the new regulatory environment they will increasingly devise new or previously underutilized methods to extract the private money that is always needed to fund campaigns.

Of all the changes brought about by *Bill C-24* none will impact parties and their candidates more than the ban on corporate and union donations. In the past, the two major parties, the Liberals and the Conservatives, relied on corporate donations for a significant portion of their funds. With this source of funding eliminated, they will need to look for additional funding, above and beyond what they receive from the public treasury. The most likely alternative is individual contributions. While the individual contribution limit of \$5,000 per person per year prevents wealthy individuals from donating large sums of money to a party or candidate, a significant amount of funding can nonetheless be raised by actively soliciting smaller donations from a large number of people.

With an increased focus on individual contributions, fundraising tools like the Internet, donor lists and direct mail will likely become more important. It is not a coincidence that the party with the most developed donor lists and the most advanced



direct mail operation is also the party that has been the most successful at soliciting individual contributions. The Conservatives have been using these techniques for years and it has paid dividends. The Liberals in particular, as well as the other parties, will need to adopt similar tactics if they wish to grow their donor base.

In addition to increasing the number of donors contributing to their campaigns, parties and their candidates will likely attempt to solicit more maximum contributions from wealthy donors. Parties are already actively encouraging their supporters to act as “contribution coordinators,” bringing together sets of maximum individual contributions from their friends and associates.<sup>137</sup> These “bundled” contributions emerged during the June 2006 election when lawyers Daryl Friedhandler and Jim Palmer and businessman Murray Edwards targeted Albertans to give the maximum \$5,000 to the Liberal Party. Of the 66 individuals who contributed the maximum allowed to the Liberals during the campaign, more than half—44—came from Alberta.<sup>138</sup> By encouraging wealthy individuals to solicit their friends and associates, the parties can more efficiently raise large sums of money without many of the costs associated with tools like direct mail.

One of the unintended consequences of *Bill C-24*’s public financing provisions is that under a minority government, parties may find themselves without enough cash to fund a snap election. In the past, a short election cycle might make it difficult to fundraise, but the availability of large corporate, union and individual contributions allowed parties to raise sizeable war chests on relatively short notice. This is no longer

---

<sup>137</sup> Anthony Sayers and Lisa Young, “Election Campaign and Party Financing in Canada.” *Democratic Audit of Australia*. Sep. 2004

<[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf)> (3 Aug. 2006)

<sup>138</sup> Anne Dawson, “Conservative Fundraising Outpaces Liberals by 3-1,” *Calgary Herald*, 6 Aug. 2005, A8.

the case under C-24. Now, public funding is delivered quarterly and building enough funds takes time.<sup>139</sup> One of the ways the parties might adapt to this gap in funding is to seek contributions on a more ongoing basis. For example, donations made on a monthly basis, as opposed to annual contributions, would provide parties with a steady stream of funds that could be used on short notice in addition to or in the absence of public funds. While C-24's contribution limits would still limit the total amount an individual could contribute annually, a number of smaller monthly donations would provide parties and candidates with a more steady flow of cash. The lower monthly amounts might also make the solicitations more appealing to donors.

While *Bill C-24*'s public financing provisions have offset the loss of corporate and union donations for the parties, no such replacement funding has been offered to organizations at the local level. This means that whereas prior to C-24 local riding associations could count on large donations from corporations and private individuals to fund grassroots campaigns, many local organizations must now hope for cash transfers from the national party. The problem is in an environment where every vote is worth \$1.75, parties have an incentive to run nationally-oriented campaigns planned by strategists in Ottawa. This means less money for local organizations at a time when local campaigns are already reeling from the loss of corporate and union donations. The most likely effect of this change is that candidates and local riding associations will need to spend more time fundraising for themselves and it has already been shown that much of this funding must come from individuals.

---

<sup>139</sup> Anthony Sayers and Lisa Young, "Election Campaign and Party Financing in Canada," *Democratic Audit of Australia*. Sep. 2004  
[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf) (3 Aug. 2006)

## Conclusion

Just as past Canadian and American reforms provide several useful points for comparison, so too do the most recent efforts. While the legislative histories of both nations highlight numerous similarities—an often shared impetus for reform, similar unintended consequences, and an analogous role for the courts in interpreting reform, the most recent legislation displays even more striking likenesses. First, as has been the case with so many previous reform efforts, both BCRA and C-24 were largely responses to political scandals. Second, both acts aim to greatly limit corporate and union donations to political campaigns. Tied to this goal, both laws encourage parties and candidates to place a greater emphasis on individual contributions. Finally, one of the early consequences of both McCain-Feingold and *Bill C-24* is that local party organizations have less funds available to pay for the types of grassroots activities they carried out in the past.

In a pattern similar to earlier reform efforts, both BCRA and C-24 emerged in the aftermath of highly publicized political scandals. McCain-Feingold was originally introduced in the Senate in 1997 as reports about fundraising abuses during the 1996 elections began to receive media attention. While successful legislative action was not forthcoming until 2002, further scandals, this time of the corporate variety, gave lawmakers the support needed to ensure BCRA's passage. The House finally approved reform in 2002 after a three-day debate held amidst national coverage of the Enron bankruptcy and numerous other corporate scandals.

Like McCain-Feingold, *Bill C-24* also emerged following the early revelations surrounding a national political scandal. Receiving royal assent on 19 June 2003, the

law's hurried adoption only preceded the release of the Auditor General's damning report on the sponsorship scandal by eight months. The Prime Minister's sudden interest in campaign finance reform can largely be explained by a desire to immunize the Liberal Party from the political fallout from the sponsorship program. Many of the provisions included in C-24 lend credibility to this impetus for reform. Clearly, like so much previous legislation, both bills represent an attempt by lawmakers to respond to demands for reform brought about by national controversies.

If the 1996 US elections and the federal sponsorship program exposed anything about the political processes of Canada and the United States, it was that big corporate interests were capable of securing access to lawmakers and possibly even exercising undue influence, if they were willing to contribute financially to parties and their candidates. As a result, in an attempt to change public perceptions about the relationship between moneyed interests and elected officials, lawmakers on both sides of the border crafted reform legislation which included provisions aimed at reducing the amount of money corporations and unions could donate to political campaigns. As a result, the similarities between BCRA and C-24, as they relate to corporate donations, are striking.

The most important of BCRA's two main pillars is the ban on political party soft money. For a variety of reasons, prior to BCRA, corporations, labour unions, and even foreign nationals were allowed to donate hundreds of millions of dollars to the national parties despite the existence of legislation prohibiting such activities. In Canada too, prior to C-24, corporations were free to donate unlimited amounts of money to political parties and their candidates, as were individuals. This is no longer the case under the new regulatory frameworks in both countries. BCRA has banned soft money donations, while

C-24 has prohibited, with minor exceptions, corporate and union donations. What is interesting to note about these similar provisions is that by limiting the amount of corporate money available to political campaigns, both laws will force candidates and parties to adopt similar fundraising strategies to make up for the loss of funding. Despite significant differences in the political systems of Canada and the U.S. we may be seeing a convergence in terms of campaign techniques due to the recent efforts to limit corporate contributions.

While BCRA and *Bill C-24* are no doubt significant pieces of legislation, neither act is aimed at limiting the ever-increasing cost of election campaigns. This omission, intended or not, will have important consequences, as parties and candidates struggle to raise increasing amounts of money without much of the corporate and union support they could rely on in the past. As a result, one of the hypothesized effects of both pieces of legislation is that parties and candidates will need to place an increasing emphasis on soliciting donations from individual contributors in the future. To make up for the loss of corporate money, campaigns on both sides of the border will need to reorient their fundraising strategies towards a larger number of small and more numerous individual donors. It is likely that tools designed to maximize efficiency and reach the greatest number of donors—tools like the Internet, direct mail, and the like—will become more heavily utilized by both Canadian and American campaigners as they adjust to the new realities of election finance.

Finally, the recent reforms will likely have similar effects on campaigning at the grassroots or local level. McCain-Feingold greatly limits how much state party committees can spend. This is because the bill's ban on soft money means that money

raised at the state level, if used for federal election campaigns, is counted as a national party expenditures—subject to source and amount restrictions. Understandably, the national parties are not keen to accept this state money because they have less of a say over how the local organizations spend it. As a result, state committees will increasingly find less money available from national political organizations like the DNC, while at the same time dealing with the loss of soft money donations prior to BCRA.

In Canada, local constituency associations are facing similar financial pressures. As a result of C-24's public financing provisions, political parties have been provided with funding to replace lost corporate and union donations; however, local organizations are now faced with the task of raising increasing amounts of money without access to the supply of corporate support that was so critical in the past. Faced with the prospects of either hoping for handouts from the national party or hurriedly building up their own individual donor lists, local campaigns will need to become more self-sufficient if they are to meet the demands of future campaigns. Clearly, there is a convergence taking place at the grassroots level in both Canada and the U.S., at least with regards to the financial difficulties being experienced by local political organizations.

### CHAPTER 3: THE IMPACT ON FUNDRAISING IN ONE CANADIAN RIDING AND ONE U.S. DISTRICT

Despite the relative lack of academic literature on the effects of C-24 and BCRA, it is possible to get a sense of how the legislation has affected fundraising at the grassroots level by combining data gathered from interviews with relevant campaign staff with anecdotal evidence gained from news reports and articles. Indeed, the lack of research on this topic only serves to add to the importance of this examination and makes any findings all the more interesting. This chapter will report on the results of interviews held with individuals with first-hand knowledge of *Bill C-24* and McCain-Feingold who were asked to describe the ways in which the new laws affect fundraising at the local level. To give context to these changes, a brief description of how fundraising typically occurred prior to the new legislation will be offered for both countries. The following sections will assess the extent to which fundraising has changed as a result of these reforms.

#### C-24 and Grassroots Fundraising: Big Change for Some, Business As Usual for Others?

To get a sense for how C-24 has affected fundraising locally, I met with the campaign chair for a victorious Conservative campaign from British Columbia. I chose the Conservative campaign partially because the incumbency of the MP allowed his staff to make comparisons regarding how fundraising occurred prior to and after C-24. However, before discussing my findings, it is necessary to offer a brief description of the riding under consideration.

### Profile of a Canadian Riding

The federal riding I examined is located in British Columbia and continues to be represented by a multi-term Conservative MP. The electoral district has a population of about 110,000 people, with a visible minority population of only about ten percent.<sup>140</sup> Residents can be classified as being relatively highly educated with over 25 percent of the population holding at least a university degree and another 25 percent possessing a college or trade certificate or diploma.<sup>141</sup> A significant portion of residents also have some post-secondary education short of a diploma or degree. The largest employers in the riding are the management sector, the business, finance and administrative sector, health occupations and the sales and services industry. In terms of wealth, income levels are above both the provincial and national averages. The average household income is about \$62,000, while the average family income is just over \$70,000.<sup>142</sup> Overall, the riding can be described as ethnically quite homogenous, as well as more economically affluent than most ridings in the province.

The riding's current MP has represented the area since first being elected to Parliament in 1997 as a candidate for the Reform Party. In fact, the riding elected its first Reform candidate in 1993 and has returned candidates from the Reform Party, Canadian Alliance, and the recently united Conservative Party since that time. During the last two federal elections, the riding has been somewhat competitive with the Conservative candidate being elected with less than 38 percent of the popular vote. This has meant that

---

<sup>140</sup> "Federal Electoral District Profile," n.d.

<<http://www12.statcan.ca/english/census01/products/standard/fedprofile/RetrieveTable.cfm?R=FED03&G=59024>> (1 Mar. 2007).

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.



in 2004 and 2006, most of the vote has actually been split between the Liberal Party and NDP. However, during the 1997 and 2000 elections, the candidate examined here was re-elected by a comfortable ten-point or higher margin.<sup>143</sup>

#### Fundraising in Canada: The Situation Prior to C-24

Before examining fundraising in Canada prior to C-24, it is useful to offer a brief classification of the federal parties so that the effects of C-24 on fundraising strategies may be better understood in the sections that follow. To this end, it is useful to point out that traditionally the country's two main parties, the Liberals and Conservatives, have been described as brokerage parties. This brokerage or cadre label has been used to describe the ways in which both parties have been forced to fashion broad-based, non-ideological coalitions of supporters in response to an electorate that has been historically fragmented along regional, ethnic, and linguistic lines. Under these conditions, the two parties have been insufficiently defined in terms of their policy programs and insufficiently enduring in their appeal to social groups to cultivate a strongly committed body of partisan supporters representative of more grassroots parties.<sup>144</sup> However, while it may be problematic to describe the pre-merger Conservatives as a grassroots party, the addition of the Reform/Alliance element in 2003 makes such a label more accurate.

By the time the Canadian Alliance and Progressive Conservatives united in 2003, both parties had moved to incorporate important grassroots elements into their internal

<sup>143</sup> "History of Federal Ridings Since 1867." n.d.

<<http://www.parl.gc.ca/information/about/process/house/hfer/hfer.asp?Language=E&Search=Det&rid=952&Include=>> (25 Feb. 2007).

<sup>144</sup> James Bickerton and Alain-G. Gagnon, *Canadian Politics* (Peterborough, ON: Broadview Press, 1999), 467.

party structure. Reform was the first federal party to have its members join the national party directly, creating an unmediated relationship between the national office and the grassroots.<sup>145</sup> Similarly, as part of a 1993 reorganization, the Conservatives created a national membership program patterned after Reform's.<sup>146</sup> In addition, while constituency activists had always dominated policymaking within the Reform Party, the Conservatives had also moved to increase grassroots involvement by 1993. By creating a new "National Council" made up of local association presidents from all 301 ridings, the Conservatives greatly increased communication between the national party and its grassroots.<sup>147</sup> This increasing role for the grassroots was expanded further when the Conservatives became the second party after the Bloc Québécois to provide for the popular election of the party leader under Joe Clark. When one factors in the importance of individual donors to Conservative and Reform candidates by the 2000 election, it is accurate to describe the post-merger Conservative Party as a grassroots party in a way similar to the NDP. These grassroots characteristics are important to recognize in explaining the relationship of the different parties to individual donors post-C-24.

Prior to C-24, candidates for federal office generally received the bulk of their funding from five sources: individuals, businesses, unions, riding associations, and their party. The proportion of funds from each source would no doubt vary considerably by riding and party; however, in general terms one could say that before 1974 the Liberal and Conservative parties were almost totally dependent on contributions from large corporations. Up until this time, individuals played a small role in financing parties and

---

<sup>145</sup> Kenneth Carty et al., *Rebuilding Canadian Party Politics* (Vancouver: UBC Press, 2000), 118.

<sup>146</sup> *Ibid.*, 120.

<sup>147</sup> *Ibid.*

their candidates. However, this reliance on corporate donations on the part of the Conservatives began to change by the 1980s. While the Liberal Party was less reliant on corporate contributions for a brief period between 1975 and 1976, the Conservatives have been less dependent ever since, with over 60 percent of the party's revenues coming from individual donors in 1981, 1982, and 1983.<sup>148</sup> In fact, by 2000, Conservative and Reform candidates only received 22 and 23 percent of their funds respectively from corporations. This compares with a figure of over 40 percent for Liberal candidates.<sup>149</sup> Individual donations aside, candidates with an ability to raise substantial amounts of money on their own, as well as candidates with a financially strong riding association, are much less dependent on transfers from the national party than candidates without this ability. Finally, under the old campaign finance laws, campaigns could raise large sums of money in a short period of time by enlisting the services of well connected individuals who could call upon their friends and associates to contribute to a campaign. In the past, a city would likely have a "bagman" who, operating in full accordance with the law, would encourage his business associates, fellow professionals, and friends to contribute to the candidate in his riding. In an era without limits on the amount of money a person could contribute to a campaign, a relatively small number of individuals donating large amounts to a campaign could raise a substantial amount of money in a short amount of time. The question is how has C-24, by redefining what is acceptable as a campaign contribution, changed the way fundraising occurs at the local level in Canada?

---

<sup>148</sup> W.T. Stanbury, "The Mother's Milk of Politics: Political Contributions to Federal Parties in Canada, 1974-1984," *Canadian Journal of Political Science* 19 (Dec. 1986): 801.

<sup>149</sup> Kenneth Carty and Munroe Eagles, *Politics Is Local: National Politics at the Grassroots*. (Oxford: Oxford University Press, 2005), 35.

### Financial Overview: Tracking the Money

Having reviewed the financial records for the Conservative candidate under examination, it is possible to offer a brief summary of the sources of his campaign funds. In each of four elections, the candidate has received funding from three sources: individuals, businesses, and his riding association.<sup>150</sup> Absent from the mix are any contributions from unions or transfers from the central party. Generally speaking, most of the candidate's funding has come from the riding association. Of the \$73,172 in total contributions the candidate has averaged over four elections, just over sixty percent or about \$44,000 per election has been in the form of transfers from the riding association.<sup>151</sup> By comparison, individual contributions have accounted for roughly one-third of the candidate's total funds on average. The vast majority of individual donors have contributed amounts of less than \$200, with the campaign averaging approximately 170 individual donors per election. While it is necessary to point out that in recent elections, the local riding association has come to account for an increasing percentage of the total funds raised, this might be expected in a riding where the candidate has won re-election four times, giving the riding association ample time to build a solid fundraising base. Further, the declining percentage of individual contributions, as compared to riding association transfers, seen in 2006, might be explained by the fact that the candidate had to finance two federal elections in just two short years from 2004 to 2006. One might suspect that some supporters who had given money in 2004 might be somewhat reluctant to open their wallets again so soon in 2006.

<sup>150</sup> "Candidates' Details - Campaign Financial Summary," *Elections Canada*, 29 Sep. 2004. <[http://www.elections.ca/scripts/webpep/fin/summary\\_report.aspx](http://www.elections.ca/scripts/webpep/fin/summary_report.aspx)> (19 Feb. 2007).

<sup>151</sup> These figures are the author's own, using data from the candidate's financial records filed with Elections Canada.

## C-24: Changes Sure, But for Who?

### An Increased Emphasis on Individual Contributions?

Of all the changes brought about by *Bill C-24*, none will impact parties and their candidates more than the ban on corporate and union donations. With this source of money greatly reduced, parties will need to look for additional funding, above and beyond what they receive from the public treasury. It is clear that individual contributions will replace much of this funding and the parties are already re-orienting their fundraising strategies to tap this increasingly important source of cash.

All three major parties – the Liberals, Conservatives, and New Democratic Party (NDP) – will need to adjust their fundraising tactics to deal with the loss of corporate and union donations. However, some parties are better positioned than others to make this transition. Parties with a strong individual donor base, like the NDP and Conservatives, will be better situated to make up for the drop in corporate money. Since the late 1970s, the Conservatives have proven their ability to raise money from a large number of individual donors. In fact, from 1978 to 1984, the party received contributions from a larger number of individuals than the Liberals, with over 93,199 people contributing to the Conservatives in 1984. By comparison, individual donations to the Liberal Party in 1984 only totaled 29,056—an amount three times less than that of the Conservatives.<sup>152</sup> As a result of the party's historical reliance on corporate funds for a significant portion of its campaign funds, the Liberal Party will have a comparably difficult time in the future.

---

<sup>152</sup> Stanbury, "The Mother's Milk of Politics: Political Contributions to Federal Parties in Canada, 1974-1984," 804.

If there is one party that has emerged well-prepared for C-24 it is the Conservative Party. Small donors have been an important source of funding for the party since the late 1970s and the increasing emphasis on individual donors will only strengthen the party's hand in terms of fundraising. Under the new regulations, any infrastructure one has in place to contact supporters can be used for fundraising purposes and the Conservatives have been aggressively building such an infrastructure for decades. During the 1980s, it was direct mail, and more importantly the donor lists it requires, that allowed the party to solicit contributions from small donors across the country. As Stanbury noted in his study of party financing from 1974-1984, perhaps the most extraordinary change in the way the three main parties raised contributions during this period was the Conservative Party's ability to raise money from individuals, most of whom gave less than \$100.<sup>153</sup> Much of this increase can be attributed to the party's adoption of US-style direct mail appeals to individuals and small businesses, which by 1984 had allowed the Conservatives to tap more individual donors than even the NDP.<sup>154</sup> During the 1990s, the Conservatives once again sought to expand their solicitation of individual donors by incorporating telemarketing into their fundraising apparatus.<sup>155</sup> The difference between the Conservatives and a party like the Liberals, however, was that the Conservatives already had well-developed donor- and mailing-lists from which to mine for contributions via telemarketing. More recently, the party has turned to e-mail solicitations to connect with individual donors. Again, while all parties might need to turn to similar technologies to pursue more individual contributions, the Conservatives have

---

<sup>153</sup> Ibid, 803.

<sup>154</sup> Stanbury, "The Mother's Milk of Politics: Political Contributions to Federal Parties in Canada, 1974-1984," 817.

<sup>155</sup> Interview with Conservative Campaign Chair, 21 December 2006.

had at least a two decade head start in building the necessary infrastructure to maximize the effectiveness of such tools.

Whereas the Conservatives, and to a lesser extent the NDP, are well-prepared for the increasing importance of individual contributions, the evidence suggests the Liberals are not.<sup>156</sup> In fact, the true irony of C-24 is that the party that introduced the legislation is the same party that benefited the most from the old system. Prior to C-24, the Liberals, as Canada's perennial governing party, could always rely on big corporate donations to raise large sums of money often on short notice. With a firm grip on the reigns of power in Ottawa, there was little need to build the kind of grassroots infrastructure needed to solicit individual contributions.<sup>157</sup> However, this practice is no longer possible under C-24 and there are several organizational problems that compound problems for the Liberals.

Unlike grassroots parties like the Conservatives and the NDP, where the membership gets together from time to time to discuss policy at conventions and can be targeted for contributions, the Liberals have historically been run by the parliamentary wing in Ottawa – primarily through the Prime Minister's Office. This organizational structure worked fine in the past when the party formed government but the Liberals now find themselves in a minority role with no access to the offices that were so crucial to campaigning in the past. As a result, the party must now turn to a woefully underdeveloped grassroots for financial support. Commenting on this unpreparedness, an internal Liberal Party report from August 2005 noted how in the first quarter of 2005 the

---

<sup>156</sup> John Ivison, "Party Needs Help: Liberals: Internal Report Urges Pre-Election Overhaul," *National Post*, 25 August 2006: A1.

<sup>157</sup> Interview with former Liberal candidate, 19 October 2006.

party raised just \$1.5 million from 6,500 contributors. By comparison, during the same period the Conservative Party raised \$5.6 million from 37,000 donors.<sup>158</sup> In short, the dilemma for the Liberals is that they must now begin the tedious process of building a well-developed donor base.

Despite the wide variation in the ability of different parties to solicit individual contributions, there are ways in which the parties' strategies will converge. For example, now more than ever there is a real need to stay in constant contact with the individual donor or supporter. In the past, parties would experience huge swings in the amount of donations. During an election year the totals would spike and then they would drop off in non-election years. However, under C-24 there is more of an incentive to try to develop a steady stream of revenue and grow the donor lists because you can no longer count on the big one-shot fundraising event of yesteryear. Clearly, all parties will need to adjust to this new reality and those with well-developed donor lists will be better positioned to do so.

There are two other ways in which C-24 will affect the parties in roughly similar ways. First, even before C-24 capped the amount individuals could contribute to a party and its candidates at \$5,000 per year, very few people at the local riding level ever donated that amount. Therefore, candidates are already used to soliciting smaller contributions from a larger number of people at the local level and this will not change under C-24. The only difference is that the rare large-contributor is now legally limited to a donation of \$5,000 per year. Second, C-24 has forced all parties at the national level to abandon their solicitation of big corporate donations. One should not overlook how significant this change is, as a vast amount of money that used to come from business and

---

<sup>158</sup> Ivison, "Party Needs Help: Liberals: Internal Report Urges Pre-Election Overhaul," A1.



union coffers has been replaced by a public subsidy and other forms of funding like individual contributions. For our purposes however, it is enough to remember that this change affects all parties similarly in the sense that all will have to refocus their efforts elsewhere.

### Effects of C-24 on Fundraising Tools

While the sources of campaign funds have no doubt changed as a result of C-24, the fundraising tools used by parties and their candidates will also need to be re-examined. As has already been shown, the increasing emphasis on individual contributions has necessitated a new focus on infrastructure that allows campaigns to contact supporters for fundraising purposes. As a result, tools like direct mail and telemarketing will continue to play a role in future fundraising strategies. However, it is more difficult to determine whether or not the use of more recent inventions like the Internet and e-mail are the result of changes to the law or if they are a result of the nature of the technology itself – an instantaneous form of communication with widespread reach and many cost efficiencies – or both. This question of cause and effect is something that must at least be considered even if a definitive answer to this complex question is beyond the scope of this paper.

Having discussed fundraising tools at length in my interviews with campaign staff it is possible to describe a progression over the years that continues to this day. In the 1970s and early 1980s direct mail revolutionized fundraising in Canada.<sup>159</sup> The Conservative Party was the first to adopt the practice, utilizing it with extraordinary

---

<sup>159</sup> Interview with Conservative Campaign Chair, 21 December 2006.

results in the early 1980s.<sup>160</sup> The 1990s saw the rise of telephone-based fundraising or telemarketing. This technology, which made use of the donor lists created for direct mail systems, allowed campaigns to add a human dimension to the process of solicitation. This more persuasive form of fundraising has once again been eclipsed in the last few years by the latest breakthrough – the Internet.<sup>161</sup> Today, all of the major parties use the Internet, and e-mail in particular, to contact their members and solicit contributions. However, rather than replacing the old technologies completely, as one might presume due to its obvious cost-efficiencies and numerous other benefits, it is interesting to note how the Internet has come to be a part, albeit an important one, of a wider fundraising apparatus.

In terms of fundraising, the main benefit of the Internet is its use in e-mail solicitations. The Conservatives in particular have been quick to adopt e-mail as an effective means of soliciting contributions from party members and non-members alike. The party might send out regular e-mail solicitations in the form of a bulletin heralding their achievements in Ottawa. The bulletin might be very general, designed to reach a wide audience, or it might be very specific. The Conservative campaigner I spoke to described how the party might send an e-mail bulletin to gun club members in the hopes that their opposition to the federal Gun Registry might encourage them to donate to the party.<sup>162</sup> The real benefit is that e-mail allows campaigns to mine according to issue. Parties and candidates can identify which people care about which issues and then tailor their sales pitch and solicit donations in a more efficient manner.

---

<sup>160</sup> Stanbury, "The Mother's Milk of Politics: Political Contributions to Federal Parties in Canada, 1974-1984," 817.

<sup>161</sup> Interview with Conservative Campaign Chair, 21 December 2006.

<sup>162</sup> Ibid.

A visit to the party website of all the major parties quickly uncovers a “donate” link that allows anyone the opportunity to donate to the party of their choice at anytime. The Internet will no doubt continue to play a crucial role in the fundraising strategies of parties and candidates, particularly in today’s environment where campaigns cannot count on big corporate and union donations to pay for expensive direct mail and telephone operations. The comparably low start-up and administrative costs make the Internet the ideal tool for a post-C-24 world. However, one might be surprised to learn that this does not mean the older tried-and-tested tools will be abandoned any time soon. The Conservative Party still does quarterly mailings to supporters and donors and this is unlikely to change in the near future. The reason for this commitment to direct mail is simple – direct mail still makes sense from a financial standpoint. In an environment like political fundraising, where a two percent response rate is considered excellent, parties will continue to use direct mail as long as they can maintain such a rate of return.<sup>163</sup> As a result, direct mail, telemarketing, and the Internet will continue to be used in conjunction with each other, even if the Internet is becoming increasingly attractive.

#### Effects on Local Campaigns Vis-à-Vis the National Party

Mindful of the fact that a ban on corporate and union donations would leave parties at the national level without their main source of campaign funds, legislators provided for a generous public subsidy of \$1.75 per vote. This replacement funding was designed specifically to offset the loss of corporate and union donations and the subsidy

---

<sup>163</sup> Ibid.

has served its purpose in this respect.<sup>164</sup> However, organizations at the local level also have to abide by the prohibition on corporate and union money, with only a modest increase in the reimbursement rate for candidates to make up for the shortfall. The interesting question therefore becomes how will the financial relationship between local campaigns and the national parties change as a result of C-24? Here again the answer depends very much on who you ask and what party they represent.

At first glance, one would expect grassroots parties like the Conservatives and the NDP to direct a significant portion of their public funds to the local level. After all, it is the individual donor at the local level from which the majority of each party's campaign funds come from. However, while the early indication may be that this has been the case, the interviews I conducted did not provide a definitive answer to this question. This is because the Conservative riding I examined has consistently raised more money than has been needed locally.<sup>165</sup> During the 2004 election, this meant that roughly \$12,000 in surplus campaign funds was transferred from the local campaign to the national party.<sup>166</sup> As a result, rather than seeking funds from the national party, this particular riding has typically sent a large portion of its war chest to Ottawa to help where it is more needed. Clearly, this is not the case in all ridings but in the locale I examined transfers from the party to the local campaign were unnecessary.<sup>167</sup>

---

<sup>164</sup> Anthony Sayers and Lisa Young, "Election Campaign and Party Financing in Canada," *Democratic Audit of Australia*. Sep. 2004  
<[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf)> (3 Aug. 2006)

<sup>165</sup> Interview with Conservative Campaign Chair, 21 December 2006.

<sup>166</sup> "Candidates' Details - Campaign Financial Summary," *Elections Canada*, 29 Sep. 2004.  
<[http://www.elections.ca/scripts/webpep/fin/summary\\_report.aspx](http://www.elections.ca/scripts/webpep/fin/summary_report.aspx)> (19 Feb. 2007).

<sup>167</sup> Ibid.

Like the NDP and the Conservatives, local Liberal campaigns must also compete in an environment where large corporate donations are no longer permissible. However, the problem for the Liberals is the lack of a grassroots infrastructure makes it doubly difficult to compensate for this cash shortfall by focusing on individual contributions. As a result, local Liberal organizations, like the party's provincial wings, will no doubt seek some of the public subsidy money out of sheer necessity. Will the national party be willing to direct a significant amount to the local level? The interviews I conducted, as well as the available anecdotal evidence, do not provide a definitive answer to this question. It is still very much unclear how the financial relationship between the national party and the local associations will change as a result of C-24. However, when it comes to reporting fundraising activities the picture is much clearer.

#### Increased Centralization Due to Onerous Reporting Requirements

*Bill C-24's* prohibition of corporate and union donations includes a minor exception whereby corporations and unions may make contributions of \$1,000 annually in the aggregate to the registered associations, nomination contestants, and candidates of a particular party.<sup>168</sup> Although this exception does not allow these organizations to donate to a party or leadership contestant, the parties will play an important role in monitoring these contributions out of necessity. This is because the new contribution limits make compliance quite tricky. In the past, companies could contribute any amount to a party or any number of candidates as long as the contributions were reported. This is still the case

---

<sup>168</sup> Anthony Sayers and Lisa Young, "Election Campaign and Party Financing in Canada." *Democratic Audit of Australia*. Sep. 2004  
 <[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf)> (3 Aug. 2006).

under C-24 but the permitted amounts, from the point of view of a large corporation, are miniscule. As a result, under the new rules, campaigns cannot accept contributions over \$1,000 in the aggregate from corporations or unions. This means that campaigns will need to practice due diligence in reporting. For example, in the past, \$1,000 could easily be raised at one fundraising dinner. Under the new law, as soon as the \$1,000 limit has been reached no other candidates from the same party can accept contributions from the same company. As a result, the onerous reporting requirements implicit in C-24 will necessitate further centralization at the national level. Parties cannot afford to trust the local riding associations to track all that corporate and union money. A centralized authority must be able to ensure that two local campaigns, when combined, have not exceeded the new limits.

#### Effects on the Amount of Time Committed to Fundraising

Accurately gauging the impact of C-24 on the amount of time committed to fundraising once again depends very much on the party. Further complicating things is the fact that the amount of money the national parties direct towards the local ridings will also influence how much time is spent locally on fundraising. However, in general terms it is possible to conclude that here again the party that will be the least adversely affected is the Conservatives. The campaigners I interviewed generally felt that the Conservatives, because they have increasingly relied on individual contributors since the late 1970s, will simply continue to focus on individuals. In fact, much of the truly time-consuming activities, like building a centralized donor list and creating a sophisticated direct mail and telemarketing system, were done years ago, and the party now finds itself far ahead

of its electoral competitors. That said, C-24 has created a real incentive for all parties to remain in constant contact with donors because of their inability to count on the kinds of big fundraising events that used to take place prior to C-24. The amount of time this will add to fundraising is not certain, but it is clear that all parties, including the Conservatives, will have to participate in these efforts.

The party that will need to commit the most amount of time to fundraising post-C-24 is the Liberal Party. Consider the differences between the Liberals and the NDP. To make up for the loss of union contributions, the NDP will no doubt need to spend more time soliciting individual contributions. However, the NDP has a grassroots organization in place. People who used to be a member or supporter of the NDP can now become a donor to the party, if they were not already, and the time committed to soliciting these individuals will be time well spent. The Liberals, on the other hand, will first need to expand their links with supporters before beginning the laborious task of building the kind of infrastructure needed to solicit contributions from them. The problem for the Liberals is these are the kinds of activities that are especially time consuming and their competitors have a substantial head start.

#### A New Emphasis on Monthly Contributions?

In an era where minority governments seem to be much more common than in times past, it is useful to examine whether or not campaigns are adjusting their fundraising practices to be better prepared for more regularly occurring elections. It would be useful to know if candidates and parties, no longer able to raise large amounts of money on short notice through large corporate fundraising events, are revamping their

fundraising practices to supplement the public funding that is delivered on a quarterly basis. All three major parties now offer their supporters the option of contributing on a monthly, as opposed to annual, basis. One interpretation of this new emphasis on ongoing contributions is that parties are attempting to secure a steady-stream of campaign funds that could be used on short notice to fund a snap election, in addition to or in the absence of public funds.

The campaign staff I interviewed offered a different explanation of this strategy. Monthly donations offer numerous benefits to parties. First, these donations, which are typically set up online and charged to a supporter's credit card, cut administrative costs. Each month a given amount is added to the donor's credit card without any need to commit time and resources to calling them constantly for donations. Second, monthly payments provide parties with a very reliable source of revenue. As a campaign chair informed me, people who sign up to donate to a political party rarely ever cancel their payments. Often a person will quit the party if they feel so strongly that their donations are no longer warranted. Finally, monthly donations are preferred because they provide parties with a future revenue source. Parties are able to predict with some accuracy how much money they can expect from monthly donations in the future, which is crucially important because it allows them to plan long-term. Clearly, the obvious benefits of monthly donations make the practice desirable whether or not it allows parties to be better prepared to fund snap elections.



### BCRA and Congressional Fundraising: Much Ado About Nothing?

To gauge the effects of BCRA on local campaigns in the United States, I met with the campaign director for an incumbent Democratic Congressman from Washington State. I chose this particular congressional district for a couple of reasons. For purely pragmatic considerations, the district was attractive because of the fact that a professional acquaintance was able to put me in touch with a state representative who had previously worked with the congressman and was still in touch with his current campaign staff. Second, the district possesses a number of similarities with my Canadian case with regards to demographics, education level, and the urban/rural make-up of the district. Finally, the fact that the incumbent congressman ran for office in elections both before and after BCRA allowed his staff to comment on the effects of McCain-Feingold from experience. However, before examining the results of my interview, it is necessary to offer a brief description of the congressional district.

#### Profile of a Congressional District

The Washington State congressional district I examined is represented by a multi-term Democratic Congressman. Of the district's approximately 720,000 residents, nearly 90 percent are of white or Caucasian ethnicity, with just over ten percent belonging to a visible minority.<sup>169</sup> Over half of the district's population over the age of 25 years of age possess at least some post-secondary education, with about 20 percent obtaining a bachelor's degree or higher.<sup>170</sup> In terms of employment, the most important industries in

<sup>169</sup> "Profile of General Demographic Characteristics: 2000." n.d.  
<<http://censtats.census.gov/data/WA/5005302.pdf>> 20 Feb. 2007.

<sup>170</sup> Ibid.

the district are the manufacturing, education, health and social services sectors. Income levels are almost equal to the state average, with the median household income set at about \$46,000 in 2000.<sup>171</sup> Geographically speaking, the district encompasses urban areas as well as farm lands and coastal areas. In sum, the district is quite ethnically homogenous and of average affluence compared to other congressional districts in the state.

The district's incumbent Democratic congressman has represented the area since 2000 when he defeated his Republican opponent by 4 points. While the district has not been competitive during the two most recent congressional elections, with the incumbent being re-elected by a 30-point margin, the district has elected Republican candidates as recently as 1994, 1996, and 1998.<sup>172</sup> In fact, over the past nine congressional elections, the district has at times been quite competitive, returning six Democrats and three Republicans to Washington, D.C. Currently however, it certainly appears as though voters in this part of the state favour Democratic candidates over their Republican opponents by a wide-margin.

#### Fundraising in the United States: The Situation Prior to BCRA

Any description of political fundraising in the United States depends very much on the office under analysis. Candidates for the U.S. House of Representatives will invariably face different constraints and challenges than candidates for the Senate or the presidency. Further, a candidate from a sparsely populated rural district will have very

---

<sup>171</sup> Ibid.

<sup>172</sup> "2006 General Election Results," *Washington Secretary of State, n.d.* <<http://vote.wa.gov/Elections/General/Results.aspx?o=4decfb61-9ea2-4e36-923b-7699f4ab3794>> (25 Feb. 2007).

different resources and priorities than a candidate from a heavy populated urban district. Complicating things further, an incumbent member will have access to resources that a challenger will not. However, despite these differences, my research indicates that most House campaigns receive the vast majority of their funds from three primary sources: individual donors, PACs, and party congressional campaign committees. While the weight accorded to each of these sources may vary across different districts and among candidates, the centrality of these three sources is universal to most House campaigns.

During my interview with a Democratic campaign director I was provided with a description of how fundraising works in one particular congressional district. As has been acknowledged, fundraising might proceed somewhat differently in other districts; however, much of this description can be applied to other House campaigns, with some variations. Therefore, the following analysis will examine each of three sources of campaign funds and how, if at all, they have been affected by BCRA. This analysis will be followed by a consideration of other ways McCain-Feingold has affected fundraising at the grassroots level.

#### Financial Overview: A Preoccupation With Individuals and PACs

Having examined the congressman's financial records, it is possible to briefly summarize the sources of his campaign revenue. Over the past four congressional elections, the candidate has raised an average of approximately \$1.6 million per election.<sup>173</sup> Not surprisingly, this amount has been highest in elections where there has

---

<sup>173</sup> These figures are the author's own, using campaign finance reports filed with the Federal Election Commission. Available at: <http://www.fec.gov/finance/disclosure/srssea.shtml>.

been a tight race between the candidate and his Republican challenger. Nearly all of this funding has come from two sources: individual contributions and PACs. Over the course of four elections, an average of roughly 42 percent of funding has come from PACs, with approximately 56 percent coming from individual donations. During the 2006 midterm elections, the candidate raised approximately \$1,456,000.<sup>174</sup> PACs accounted for 47 percent of this funding – the highest percentage to date, while individual contributions made up approximately 50 percent of all donations.<sup>175</sup>

### Individual Donors

Individual donors are a vitally important source of much of the money that funds congressional campaigns. Their value is reflected in the fact that candidates and their staff spend an inordinate amount of time and resources actively soliciting contributions from them. Generally speaking, there are two types of donors. Small donors typically contribute amounts of less than \$200 per donation. They are often working class individuals who are quite politically active, contributing to a candidate because they believe he or she can improve the country for their families.<sup>176</sup> By contrast, large donors are typically business people or entrepreneurs who may contribute up to the maximum \$2,000 limit. Many of these donors are also grassroots people, however; they tend to also have their own issues they want to discuss with the candidate. It is these large donors who expect and often receive face-to-face time with the representative.<sup>177</sup>

<sup>174</sup> "FEC Candidate Summary Reports – Candidate ID H0WA02080," n.d. <[http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?\\_06+H0WA02080](http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?_06+H0WA02080)> (23 Feb. 2007).

<sup>175</sup> Ibid.

<sup>176</sup> Interview with Democratic Campaign Director, 23 January 2007.

<sup>177</sup> Ibid.

There are several ways to solicit contributions from individuals and, despite the differences between small and large donors, campaigns generally seek funds from both in similar ways. In the case I examined, most fundraising was done over the telephone. Both the candidate and his staff spend several hours per week soliciting contributions over the phone. This commitment to “dialing-for-dollars” applies not only to individual solicitations but also to PACs. Generally, a representative will regularly call a prominent donor to assure him he is dealing with the issues that are important to him. By the same token, a representative might contact a donor because the individual has some expertise that might help the member better understand an issue. Whatever the case, it is important to understand the rationale behind this emphasis on personal solicitations. By speaking with a contributor, be it over the phone or face-to-face at a fundraiser, a candidate is able to cultivate a relationship that may pay dividends down the road. A candidate who is in regular contact with his supporters is much more likely to be able to ask for money in the future than one who is not. This advantage simply does not exist to the same extent with other solicitation methods like e-mail and direct mail.

In addition to telephone solicitations, campaigns often utilize tools like the Internet and direct mail to reach individual donors. The campaign I examined made limited use of these tools. Individuals had the option of donating online through the candidate’s website or in response to regular e-mail updates and solicitations. However, direct mail was much less important.

### Effects of BCRA on Individual Contributions

One might expect that by banning soft money and increasing contribution limits for individuals, BCRA would encourage campaigns to direct more resources to ferreting out donations from individuals. More specifically, campaigns might be expected to place an increased emphasis on soliciting maximum contributions from so-called “high net-worth individuals” or smaller amounts from a larger number of small donors. However, the discussions I have had do not support this contention at the local level. This is in large part a result of the fact that at the congressional level campaigns have always placed an emphasis on individual donors. Candidates already spend most of their time and resources cultivating relationships with individuals. They are forced to do so because they must fund a costly re-election campaign every two years. As the campaign director I spoke to explained, candidates need the support of both small and large donors. Nothing in McCain-Feingold changes this. It is both politically expedient and economically efficient to actively solicit and stay in touch with all donors. The maximum contributor might donate more than the small donor, but there are many more small donors than large ones and this is not lost on candidates and their staff.<sup>178</sup>

### Political Action Committees

Despite the importance of individual contributions, PACs account for nearly half of all campaign funds at the congressional level. Prohibited from using corporate or union treasury funds to finance these committees, businesses and unions alike collect voluntary contributions from their employees or members, up to a maximum annual amount of

---

<sup>178</sup> Interview with Democratic Campaign Director, 23 January 2007.

\$5,000, and direct this cash towards the candidates of their choice. While the percentage of PAC money as a total of all contributions varies considerably by district and candidate, incumbents enjoy a clear advantage. In the 1994 congressional races, for example, PACs gave an average of \$262,424 to House incumbents against \$31,619 to their opponents – a ratio of nearly 8 to 1.<sup>179</sup> This advantage for incumbents is mirrored in the case I examined. During the candidate's first election in 2000, he raised only 1.4 times as much PAC money as his Republican opponent. However, as the incumbent in 2002, this advantage widened to 13 to 1. In 2006, PACs continued to favour the incumbent by a ratio of 4 to 1.<sup>180</sup>

#### Effects of BCRA on PACs

By increasing individual contribution limits to \$2,000 and indexing them to inflation, BCRA has narrowed the gap between individual and PAC contributions limits from \$4,000 to \$3,000. As this gap continues to close we might expect to see less money going to PACs and through them to candidates. However, my research indicates this is not occurring at the local level. In fact, the campaign director I spoke to was doubtful PACs would decrease in prominence as a result of McCain-Feingold for a couple reasons. First, despite the increased limits for individual contributions, people are still able to donate more than two-and-a-half times more money to PACs. Also, despite establishing aggregate limits for PAC contributions, BCRA still allows people to donate more money annually to PACs – \$57,500 versus \$37,500. In fact, one could expect that PAC limits

<sup>179</sup> Ronald Dworkin, "The Curse of American Politics," *New York Review of Books* 43 (17 Oct. 1996): 19.

<sup>180</sup> These figures are the author's own, using data compiled by the Center for Responsive Politics. Available at: <http://www.opensecrets.org/races/summary.asp?cycle=2006&id=WA02>.

might actually be increased by law in the future to keep pace with the rising individual limits.<sup>181</sup> This is because, while there are more individual contributors than there are PACs, the amount of money coming from PACs is too significant at the congressional level to do without. Candidates and their staff continue to spend valuable time soliciting contributions from political action committees. Just as they cultivate relationships with individual donors, campaigns ensure they are in regular contact with their PAC supporters, meeting with their board of directors on an ongoing basis. In an environment where campaign costs continue to rise with each election, it appears as though PACs are here to stay, particularly at the grassroots level.

#### Congressional Campaign Committees

While House campaigns receive the vast majority of their funds from individuals and PACs, many campaigns also accept money from a specific kind of PAC – a congressional campaign committee. All House Democrats pay dues to the Democratic Congressional Campaign Committee (DCCC), while GOP members contribute to the National Republican Congressional Committee (NRCC). Many representatives, particularly those in leadership positions, will also actively raise money for their committee. In exchange for these dues, representatives can and do accept funding and other support from their congressional committee at election time. However, the DCCC and NRCC are most often involved in helping new candidates running for open seats, as well as incumbents in tight races. In the campaign I studied, the DCCC was said to have

---

<sup>181</sup> Interview with Democratic Campaign Director, 23 January 2007.



been instrumental in securing the candidate's first election victory.<sup>182</sup> However, it would be a mistake to conclude that DCCC cash contributions to the candidate were "instrumental" in the candidate's first election.

In 2000, the DCCC contributed just \$4,200 to the congressman's first campaign.<sup>183</sup> This amount was increased to \$5,000 during his second campaign before being cut entirely during the 2004 and 2006 elections.<sup>184</sup> Clearly, these amounts represent a drop in the bucket when compared to the total raised. However, congressional committees contribute in a number of other ways. The DCCC might provide cash to pay for advertising or polls or it might direct staff to the district to help with the campaign. In these ways, the DCCC was heavily involved, spending nearly \$67,000 in coordinated expenditures and \$57,000 in independent expenditures on the candidate's behalf during the 2000 election alone.<sup>185</sup> However, once the candidate has won election and is seen to be secure in his seat, he will be expected to contribute much more to the committee than he will get back. This was the case in the district I examined, as the DCCC made no cash donations and contributed neither coordinated nor independent expenditure on the candidate's behalf in 2006.

The above description is useful to note only because the DCCC and NRCC play a significant role in the campaigns of many candidates, particularly newly elected ones. These committees can have an important impact at the local level and some candidates do

---

<sup>182</sup> Ibid.

<sup>183</sup> "FEC Disclosure Report Search Results," n.d. <[http://query.nictusa.com/cgi-bin/can\\_give/1999\\_H0WA02080](http://query.nictusa.com/cgi-bin/can_give/1999_H0WA02080)> (23 Feb. 2007).

<sup>184</sup> "FEC Disclosure Report Search Results," <[http://query.nictusa.com/cgi-bin/can\\_give/2001\\_H0WA02080](http://query.nictusa.com/cgi-bin/can_give/2001_H0WA02080)>. (23 Feb. 2007).

<sup>185</sup> "FEC Disclosure Report Search Results," <[http://query.nictusa.com/cgi-bin/can\\_give/1999\\_H0WA02080](http://query.nictusa.com/cgi-bin/can_give/1999_H0WA02080)>. (23 Feb. 2007).

receive a significant amount of money and other support from them in a given election. However, the changing relationship between the campaign I studied and the DCCC was a result of the fact that the candidate no longer needed the support of the committee to win re-election – DCCC money and support was needed more elsewhere in 2006. Thus, competitive factors and national party strategies, not BCRA, explain why campaigns receive differing levels of support from the DCCC or NRCC from one election to the next.

#### Effects of BCRA on Fundraising Tools

To date, much of what has been written about McCain-Feingold has centered on how the law will change the tools used for fundraising. Generally, researchers maintain that as campaigns increasingly turn to individuals to replace much of the soft money prohibited by BCRA, there will be an increase in the use of cheaper technologies that allow campaigns to identify and solicit contributions from new donors. Under these circumstances, we might expect to see an increasing reliance on tools like the Internet and e-mail. The question is are campaigns at the local level adopting the technology and, if so, is BCRA the reason?

The Internet was used for fundraising in the campaign I examined. On the candidate's website, visitors were given the option of donating online, while the campaign also sent out periodic e-mail updates and solicitations; however, the campaign director I spoke to cautioned against concluding that this willingness to use the Internet is a result of BCRA. Further, she suggested that while the Internet is used for some fundraising, it is not nearly as important as telephone and in-person solicitations. In short,

whatever the impact of BCRA locally, campaigns still place a premium on being able to communicate personally with a donor. The person who contributes online to a candidate is no doubt appreciated, however; the candidate is not able to put a name or a face to the person and there is no telling whether or not the donor will contribute in the future. As a result, whereas 20 years ago all money raised was a result of cultivated relationships, today the Internet and direct mail provide campaigns with another source of funding. For the vast majority of fundraising, campaigns will continue to rely on the traditional practice of cultivating relationships over the phone or in person. Neither the Internet nor BCRA have changed this.

Despite the lack of an effect on fundraising locally, the Internet is becoming increasingly important at the national level. This is not to suggest that BCRA has encouraged groups to use the Internet to raise money. However, these developments do affect individual donors and local campaigns in a number of ways. A good example of how the Internet is revolutionizing the way money is raised nationally is MoveOn PAC. Formed in 1998 by two Silicon Valley entrepreneurs, MoveOn PAC began as an online petition calling for an end to the impeachment proceedings against President Clinton.<sup>186</sup> Today, the PAC is more commonly known by its web address of MoveOn.org. Boasting a membership of 3.3 million nationwide, the PAC provides individuals “who normally have little political power, an opportunity to aggregate their contributions with others” to influence the outcome of congressional elections.<sup>187</sup> The organization, which works to

---

<sup>186</sup> “MoveOn.org: Democracy In Action,” n.d. <<http://www.moveon.org/about.html>> (8 Feb. 2007).

<sup>187</sup> Ibid.

help elect primarily “progressive” Democratic candidates, magnifies the voice of small donors on a scale never before seen by pooling thousands of small donations.

During the 2005-06 election cycle MoveOn raised and spent \$27 million. This included a \$25 million “Taking Back the House” Campaign, where 250,000 members contributed \$3.6 million to individual House candidates and spent \$2.8 million on MoveOn TV ads in targeted districts.<sup>188</sup> As noted in a 2006 report, MoveOn.org was one of the leading sources of financial support for Democratic candidates outside of the Democratic Party’s committees.<sup>189</sup> While MoveOn has not contributed directly to the campaign of the congressman considered here since 2000 when it contributed \$3,000, the campaign director I spoke to was quick to point out that these groups cannot be ignored and in many cases must be actively courted. Granted, the local campaign has no control over MoveOn’s funding decisions and the PAC can focus its efforts on any campaign it wishes. However, the potential exists for local campaigns to receive significant amounts of money and other support from groups like MoveOn who use the Internet to pool donations in a way that local campaigns cannot. As a result, groups like MoveOn.org, a political action committee that raises its money online, may become an increasing, albeit unpredictable, source of campaign funds at the local level. Their success also appears to suggest that PACs are here to stay.

Clearly, the use of the Internet to fundraise pre-dates BCRA and it does not appear as though campaigns at the local level have turned to the technology for an increasing amount of their fundraising needs. However, many have speculated that by

---

<sup>188</sup> “Taking Back the House,” n.d. <[http://moveon.org/content/pac/pdfs/mo\\_report\\_2006.pdf](http://moveon.org/content/pac/pdfs/mo_report_2006.pdf)> (27 Feb. 2007).

<sup>189</sup> Ibid.

banning soft money, McCain-Feingold would make it increasingly difficult for campaigns to pay for more expensive tools like direct mail. The argument here is that in the absence of soft money, campaigns might be unwilling or unable to pay for a direct mail drive, choosing instead to focus on the less costly Internet or telephone. However, once again, it appears as though the effects of the new law may have been exaggerated. The decision on whether or not to use direct mail really comes down to the preferences of the member and the demands of the district. A member from a densely populated urban district will have little use for direct mail when it is cheaper to pay for staff to go door-to-door soliciting donations. On the other hand, a member from a large rural riding with a geographically dispersed population might favour direct mail because it would be too expensive and time consuming to send staff door-to-door.<sup>190</sup> Whatever the case, my findings indicate that these considerations, not any changes brought about by BCRA, will determine the extent to which campaigns use direct mail.

#### Effects of BCRA on the Amount of Time Committed to Fundraising

One of the most important questions to ask about the impact of BCRA, and campaign finance reforms in general, is the effect the legislation has on the amount of time committed to fundraising. Clearly, all citizens should be concerned if their elected representatives are spending an increasing amount of their time searching for political donations at the expense of governance. Does BCRA, by banning soft money or encouraging the use of technologies like the Internet, affect the amount of time committed to fundraising? The campaign aid I spoke to could not answer this question for

---

<sup>190</sup> Interview with Democratic Campaign Director, 23 January 2007.

certain; however, she did strongly believe that under the current laws, the time committed to fundraising will not decrease in the foreseeable future. This is because BCRA has done nothing to limit the amount of money that can be spent on election campaigns and advertisers and pollsters know that candidates will continue to pay whatever is necessary to win re-election. This was the lesson taken from U.S. experiences by Canada's parliamentary Barbeau Committee four decades ago.<sup>191</sup> The end result is that campaign costs will continue to rise in the United States until Congress chooses to institute campaign spending limits. In the absence of such limits, candidates and their staff will continue to spend countless hours soliciting contributions and, as has been shown, the most effective way of doing so is to cultivate relationships by person and over the phone – a very arduous and time consuming task.

### Conclusions

Campaigns in Canada and the United States have only had to contend with C-24 and BCRA for a few short years. However, in that limited amount of time, Canadian and American fundraisers have had two elections each to gauge first-hand the implications of these reforms. While at this point it may not be possible to predict the long term effects of C-24 and BCRA, it is possible to offer some conclusions as to how these laws have influenced fundraising at the grassroots level in the short term.

Despite some very real differences between how political campaigns are funded in Canada versus the U.S., recent changes to campaign finance laws appear to be causing

---

<sup>191</sup> Canada, Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy: Final Report*, 1991 (Ottawa, 1991): 327.

a convergence with regards to some fundraising techniques in both countries. One cannot overlook the fact that the existence of expenditure limits in Canada and their absence in the U.S. has a profound affect on the amount of money required to fund a successful campaign. Similarly, the degree of legislative independence enjoyed by representatives of Congress must be contrasted with the rigid party discipline inherent in a parliamentary system like Canada's if one is to understand why donors tend to concentrate their efforts on parties in Canada and on individual representatives in the U.S. Finally, one should remember that by having to fund a costly re-election campaign every two years, members of the U.S. House of Representatives face pressures to constantly raise money that their Canadian counterparts simply do not. However, despite these differences, it does appear as though fundraisers in Canada and the U.S. are becoming increasingly similar in two important ways: through an increased emphasis on individual contributions and a willingness to incorporate the Internet into their fundraising apparatus.

In Canada, the near prohibition of business and union contributions to federal campaigns has forced a shift in fundraising strategies among candidates and their parties. No longer able to count on big corporate and union donors to raise money on short notice, campaigners from all parties are beginning to realize that individual donors represent the future of campaign finance in Canada. Granted, some parties are better positioned to make this transition than others; however, the general trend in Canada is an increasing emphasis on individual donors and a new reliance on the tools that make this job easier. This preoccupation with soliciting donations from individuals also exists in the United States and BCRA's prohibition of soft money might further this trend in the future. However, the difference between the Canadian and American cases is that in the

United States the emphasis on individual contributions is nothing new. Ever since the Hatch and Taft Hartley Acts of 1939 and 1946, candidates for Congress have turned to citizens for the bulk of their financial needs. This practice continues today with congressmen and their staff committing countless hours per year to the practice of “dialing-for-dollars.” As a result, while this new emphasis on the part of Canadian campaigns toward individual donors may be a result of C-24, the American preoccupation pre-dates McCain-Feingold and is unlikely to change as a result of the legislation.

Related to this increased focus on the individual donor is a new reliance on the Internet for fundraising in Canada and the United States. Each campaigner I spoke to described the ways in which the Internet is being used to reach out to new donors. However, one should not read too much into this. In the first place, the use of the Internet for fundraising began long before the implementation of C-24 or BCRA. Further, it is difficult to determine whether or not increased future use will be the result of reforms or if it will be a result of the natural progression of the technology itself. Finally, while one may see parallels in Canadian and American efforts to incorporate the Internet into fundraising efforts, it is important to point out that in both countries the Internet has not replaced existing tools as some have suggested it might. In short, the Internet appears to represent just another tool, albeit an increasingly important one, in the fundraising arsenal of campaign professionals.

One of the most important contributions of a case study like this is the extent to which findings presented here can be used to describe how fundraising occurs more generally. There are some ways in which the new laws will affect all campaigns at the



grassroots level. However, this view requires some qualification. While candidates for Parliament may in general need to spend more time and resources soliciting individual contributions in the future, this change does not affect all parties or candidates equally. Some parties are better positioned than others to make this transition and it would be a mistake to exaggerate the impact of C-24 along these grounds. At the same time, while American candidates in general may be required to maintain an emphasis on individual donors, some candidates are less reliant on such contributions than others. An incumbent Congressman will have access to PAC money and other resources that a new challenger simply will not and this should be taken into account. However, despite these variations, it is quite evident that there are some ways in which C-24 and BCRA affect fundraising across the board and this is important.

Finally, it is useful to examine the extent to which the actual changes brought about by recent reforms reflect the hypothesized effects. Judging from the preceding analysis, it appears as though the results here have been mixed. In the Canadian case, it does seem as though C-24 has forced local campaigns to alter their fundraising practices quite substantially. In fact, a party like the Liberals, having been denied a large portion of its traditional revenue base, is faced with the difficult task of expanding its individual donor lists to meet the financial demands of future campaigns. However, in the American case the impact of BCRA at the grassroots level appears to have been exaggerated. Congressional campaigns may be looking for new ways to reach individual donors; however, the most proven technique of wooing donors is still the telephone and in-person solicitations. While the Internet may becoming increasingly important, it is neither a result of BCRA, nor is it likely to replace the tried-and-tested methods mentioned above.

In the end, it appears as though the effect of these reforms, one a comprehensive overhaul of the campaign finance regime, and the other a temporary but necessary fix to the problem of political party soft money, reflects the intentions of their legislative sponsors.

#### CHAPTER 4: COMPARATIVE CONCLUSIONS

The preceding comparative case study provides a snapshot of two federal campaigns in Canada and the United States. By examining these cases in-depth it has been possible to gain an understanding of the ways in which local campaigns are altering their fundraising strategies in response to recent changes to campaign finance laws. One of the many benefits of a study like this is that the findings presented here can be applied to a certain extent to campaigns more broadly. However, on their own these cases are also highly valuable. By focusing on only two campaigns it has been possible to provide a level of description that simply would not have been feasible in a study involving a larger number of cases. Over the course of this study, it has been possible to analyze candidate financial statements, riding and district voting patterns, demographic data, and news reports from the campaigns in question, allowing the reader to make a more informed judgment about the extent to which findings may be applied to other campaigns in both countries. These two cases therefore provide an important starting point for future research into this constantly evolving field. At the same time, when taken together, these cases also provide a comparative description that is truly unique and quite rare in the academic literature. At first glance, some very significant cultural, political, and institutional differences between Canada and the U.S. might appear to preclude the possibility of a convergence of fundraising practices. However, the cases presented here certainly appear to show that in a number of respects fundraising techniques in both countries have become quite similar, at least partly as a result of nearly simultaneous reforms on both sides of the border.

To what extent do the findings presented here apply more broadly? Clearly, there are ways in which all candidates and parties in Canada will need to adjust their fundraising strategies as a result of C-24. The near ban on corporate and union donations has necessitated an increased focus by all campaigns on individual contributions. Gone are the days of the \$1,000-a-plate fundraising dinner where tens or hundreds of thousands of dollars could be raised in a single evening. In its place is a new drive to stay in touch with the individual donor or supporter. In an environment where parties and candidates can no longer count on the big one-shot fundraiser of yesterday to fill their coffers, there is a new need to develop a steady stream of revenue that is only achievable by growing one's donor lists. Of course, tools like the Internet, e-mail, direct mail, and the telephone, which help campaigns ferret-out individual contributions, will need to be increasingly employed by all parties and their candidates and in this respect the effects of C-24 can be applied quite broadly. However, it would be a mistake to conclude that all parties and candidates are equally affected by C-24. Parties with a strong grassroots organization like the Conservatives and the NDP are much better positioned than the Liberals to make-up for the loss of corporate and union money by focusing their fundraising efforts at their membership. This is in stark contrast to the Liberal Party which has been more reliant on corporate donations for its campaign funds at the expense of any grassroots infrastructure that might be tapped for future donations. Further, the case studied here illustrates that some campaigns possess a fundraising ability, thanks to the local riding association, that limits any dependency on the national party for financial transfers. In many parts of the country, however, the local riding association is not so well off and transfers from Ottawa are much more important. This is particularly true post-C-24, as candidates can no longer

turn to big corporate or union donors for a quick fundraising boost at election time. Here too, the effects of C-24 will vary significantly by party or candidate and the riding they represent.

By prohibiting the raising and spending of “soft money,” extending regulation to issue advertisements, and increasing individual contribution limits, BCRA has ensured that American candidates from both parties will continue to focus their fundraising efforts on individuals and political action committees. While these two funding sources have been central to congressional campaigns for decades, their continued prominence appears to have been guaranteed by McCain-Feingold. However, in a manner similar to the Canadian case, not all candidates are equally affected by BCRA. The continued emphasis on individual and PAC contributions provides a significant advantage to incumbent members of congress and more senior ones at that. The incumbent candidate and his or her staff, having already built a substantial donor base to win a first election, will be sure to commit countless hours to growing that base once in office. When one combines this experience factor with the tendency of PACs to back incumbents over challengers by a wide margin, it becomes quite clear that the real beneficiaries of BCRA are incumbents.

The history of campaign finance reform is replete with examples of scandal necessitating reform. These reforms have often forced candidates and parties in both countries to re-evaluate and change their fundraising strategies to adapt to the new laws. However, some legislation has had more of an impact than others. Candidates generally ignored the 1925 *Federal Corrupt Practices Act*, while the Hatch and Taft-Hartley Acts created the PAC phenomenon which now accounts for roughly half of all money spent on

congressional elections in the U.S. The question is how substantial of an impact have C-24 and BCRA had on the fundraising environment?

The cases presented here clearly suggest that the effects of reform have been much more pronounced in Canada than the U.S. However, the effects of reform in general have been exaggerated by scholars and pundits on both sides of the border. Granted, candidates from all the major Canadian political parties will need to increasingly focus their fundraising strategies on individual donors. And the near elimination of all corporate and union support no doubt constitutes a drastic shift in the way campaigns are funded in Canada. However, it certainly appears as though C-24 affects one party, the Liberals, disproportionately compared to the others. The evidence I have encountered suggests the Conservatives have emerged well-prepared for the changes. They and the NDP have relied more heavily on individual donations for decades now and C-24 only mandates that they continue to do so because of a lack of alternatives. Further, one should not overlook the significance of the per vote public subsidy that was included in C-24. Parties and candidates knew at the time the legislation was drawn up that the loss of corporate and union revenue would need to be replaced somehow. The evidence suggests the subsidy has achieved this goal and parties have emerged from C-24 flush with cash as a result.

What is striking about the American case is the extent to which fundraising at the local level remains unchanged by BCRA. And why should this not be the case? The most recent American attempt at reform is hardly as comprehensive as the Canadian legislation. McCain-Feingold was never designed to curb election expenses. Even its principal sponsors never considered dealing with PACs or instituting expenditure

limitations. BCRA merely sought to close the soft money loophole and extend regulation to cover issue advertisements and, in these respects, it appears to have been successful. As a result, campaigns continue to focus primarily on individuals and PACs for the vast majority of their fundraising needs. Despite the increased individual contribution limits, PACS continue to make more sense financially. Further, while these new limits allow some people to donate higher amounts to the candidate of their choice, campaigns still need the support of both small and large donors and nothing in BCRA has changed this. Finally, because of the ever-expanding cost of congressional campaigns, candidates and their staff have been forced to rely on the strategies that have proven successful in the past. Therefore, telephone and in-person solicitations remain the ideal method of raising money, despite the new ways the Internet and e-mail are being used every day. In short, it appears as though it is business as usual for American fundraisers in the aftermath of BCRA, despite the hypothesized effects of scholars and political strategists.<sup>192</sup>

One of the most problematic aspects of examining political fundraising in Canada and the U.S. is the extent to which comparisons can be drawn across countries with some very real cultural, political and institution differences. However, having recognized these differences, it certainly appears as though fundraising practices in both countries are becoming increasingly similar. It would be a mistake to label this as a convergence because it appears as though Canadian strategies are beginning to mirror those used by American campaigners for decades. However, the techniques and tools used by fundraisers certainly appear to becoming increasingly similar under C-24 and BCRA and this should come as no surprise. Both Canadian and American legislators recently passed

---

<sup>192</sup> Robert F. Bauer, "A Report from the Field: Campaign Professionals on the First Election Cycle under the Bipartisan Campaign Reform Act," *Election Law Journal* 5 (2 Nov. 2006): 105-120.

reforms severely restricting the amount of corporate and union money available to political campaigns. Individuals, and PACs in the U.S. case, have been left as the obvious replacement for this money and techniques have reflected this new imperative. Having recognized this new emphasis on individual donors in Canada and their continued importance in the United States, the real question becomes is this a good thing? What are the democratic implications of an increasing emphasis on the individual donor?

Former U.S. Secretary of State and Noble Peace Prize winner George C. Marshall once said: "Democracy is the most demanding of all forms of government in terms of the energy, imagination, and public spirit required of the individual." In an era of increasing voter apathy and decreasing public trust in elected officials, the voting public is faced with an important question: are we willing to participate in the future of our democratic government? With Internet access and a few clicks of the mouse, any Canadian or American can quickly view the names of all those people and companies who donated to a particular candidate. Yet, Congress and Parliament and the Chief Electoral Officer continue to expand the regulation of campaign finance. Would this regulation be necessary if individual voters were willing or able to hold politicians and parties to account on their own? Is it not possible for the average voter to decide for themselves who is bankrolling a candidate in their riding? C-24's inclusion of a generous public subsidy has replaced the large amount of corporate and union donations that used to fund Canadian elections. Would this subsidy, or the money it has replaced, have been necessary if individual voters were contributing in the first place? The true lesson of this examination of the regulation of campaign finance in Canada and the U.S. is that we



might not need these laws if people were participating in the democratic process in the first place. Fortunately, there are reasons to be optimistic about the future.

While a preoccupation with soliciting individual donations is nothing new to political fundraisers in the United States, its arrival in Canada signifies an important change in the way campaigns are funded. This new emphasis on individuals has implications for democracy for a simple reason: when people give money they expect something in return. Put another way, when someone donates to a political campaign they usually expect that their voice will be heard and their issues will be dealt with. One might object that such an arrangement will invariably increase the possibility of wealthy individuals gaining control over politicians. However, the Internet, as illustrated by the success of PACs like MoveOn, gives us reason to believe that the small donor, when properly organized and motivated, can become a force to be reckoned with financially and campaigns have already begun to change their fundraising strategies to appeal to this increasingly important player. The fact is the bulk of campaign contributions at the local level in Canada now come from individuals. About half of all contributions at the congressional level also come from individuals and PACs provide another opportunity for citizens to amplify their voice by pooling their resources. As a result, the potential exists for an increasing number of small donors to have a growing influence over politics in both Canada and the United States. Is the average voter willing to participate? This remains to be seen.

As a final note, a few words regarding possible future avenues of research are necessary. The opinion emerging from this examination is that the findings presented here can clearly be applied to campaigns more broadly. However, the usefulness of

expanding the sample size of cases should not be overlooked. Ideally, a future study of this issue would include interviews with campaign staff from all of the major Canadian political parties as well as interviews with staff from a Republican congressional campaign. One might also take steps to ensure that an appropriate urban/rural as well as regional mix be accounted for in future interviews in both countries. While such considerations were simply beyond the scope of the preceding study, a PhD dissertation might offer both the time and resources necessary for such an expanded study. It is my sincere hope to carry out such a study in the future.

## APPENDIX

Federal Campaign: Interview Questions

- Did the law affect the amount of time committed to fundraising? *E.g. through the increased efficiencies of the Internet, or the inability of local candidates to rely on corporate and union donations?*
- What has been the effect of the increase in the reimbursement rate for candidates? *The reimbursement rate for candidate election expenses has been increased from 50% to 60%*
- How have candidates and parties sought to replace corporate and union donations? *E.g. by focusing on individual contributions? By soliciting maximum \$1,000 contributions from small businesses (to registered associations, nomination contestants, and candidates in the aggregate annually)*
- How have campaigns altered their fundraising practices with respect to individual donors?
  - How have tools like the Internet, donor lists, and direct mail been utilized as a result of C-24?
  - Has there been a focus on soliciting "contribution coordinators" to bring together sets of maximum contributors?
- How has the quarterly delivery of public funding altered campaign strategies/fundraising practices?
- With the loss of corporate, union, and large individual donations, without replacement public funding, how have organizations at the local level altered their campaign/fundraising strategies?
  - How has the financial relationship between the national parties and the local campaigns/riding associations changed as a result of C-24?

### Congressional Campaign: Interview Questions

- Did the law affect the amount of time committed to fundraising? *E.g. through the increased efficiencies of the Internet, or the ability of the candidate and the staff to raise larger hard money contributions?*
- How did the prohibition on national party soft money fundraising change, if at all, the relationship of the candidate to the parties in the conduct of the campaign? *Was there a difference, and did it matter?*
- What affect did the ban on national party soft money and the increased hard money limits have on fundraising practices?
- What precisely changed in the use of the Internet for fundraising?
  - Did the increased Internet activity follow from the change in the law, and specifically the restrictions on soft money?
  - Or did it occur also because the nature of the technology—rapid development, powerful reach, cost efficiencies—favoured this development?
  - Or both?
- How did the law affect the role of PACs and other outside groups?
  - How has the role of so-called “527 groups” changed as a result of BCRA?
    - Are these groups being used as a new vehicle for soft money? Or an extra vehicle for hard money donors to give more?
- How have BCRA’s provisions regarding “electioneering communications” affected campaign advertising techniques? *E.g. Among candidates and outside groups*
  - Is advertising occurring earlier than in the past to avoid the 30- and 60-day restrictions?
  - Are campaigns shifting resources to communications not covered by BCRA like direct mail, voter guides, telephone banks, and the Internet?

## BIBLIOGRAPHY

- "2006 General Election Results." *Washington Secretary of State*. n.d. <  
<http://vote.wa.gov/Elections/General/Results.aspx?o=4decfb61-9ea2-4e36-923b-7699f4ab3794>> (25 Feb. 2007).
- Alexander, Herbert E. "The Regulation of Election Finance in the United States and Proposals for Reform." In *Comparative Issues in Party and Election Finance* ed. by Leslie F. Seidle. Ottawa: Dundurn Press, 1991.
- An Act to Amend the Canada Elections Act and the Income Tax Act, Bill C-24, As Passed June 19, 2003 (Canada, 37th Parl., 2d sess.)
- Aucoin, Peter and Lori Turnbull, "The Democratic Deficit: Paul Martin and Parliamentary Reform." *Canadian Public Administration* 46 (Winter 2003): 427-449.
- Bauer, Robert F. "A Report from the Field: Campaign Professionals on the First Election Cycle under the Bipartisan Campaign Reform Act." *Election Law Journal* 5 (2 Nov. 2006): 105-120.
- Bickerton, James and Alain-G. Gagnon, *Canadian Politics*. Peterborough, ON: Broadview Press, 1999.
- "Bipartisan Campaign Refom Act of 2002," n.d.  
 <<http://www.citizen.org/congress/campaign/legislation/bcralaw/>> (4 Apr. 2006)
- Buckley v. Valeo, 424 U.S. 1 (1976).
- Cain, Bruce E. *The Personal Vote: Constituency Service and Electoral Independence*. Cambridge, MA: Harvard University Press, 1987.
- Canada. Commission of Inquiry Into the Sponsorship Program and Advertising Agencies. Phase 1 Report. Ottawa: Public Works and Government Services Canada, 2005.  
 <[http://www.gomery.ca/en/phase1report/summary/es\\_full\\_v01.pdf](http://www.gomery.ca/en/phase1report/summary/es_full_v01.pdf)> (31 Aug. 2006).
- Canada Elections Act, Bill C-2, As Passed May 31, 2000 (Canada, 36th Parl., 2nd sess.)
- Canada. Parliament. House of Commons. *Debates*, 29th Parl., 10 July 1973, 5482.
- Canada. Parliament. House of Commons. *Debates*, 37th Parl., 2<sup>nd</sup> sess., 9 Jun. 2003.

- Canada. Royal Commission on Electoral Reform and Party Financing. *Reforming Electoral Democracy: Final Report, 1991* (Ottawa, 1991)
- "Candidates' Details - Campaign Financial Summary." *Elections Canada*. 29 Sep. 2004. <[http://www.elections.ca/scripts/webpep/fin/summary\\_report.aspx](http://www.elections.ca/scripts/webpep/fin/summary_report.aspx)> (19 Feb. 2007).
- Caro, Robert A. *The Years of Lyndon Johnson, Volume 1: The Path to Power*. New York: Alfred A. Knopf, 1982.
- Carty, Kenneth, and Munroe Eagles. *Politics Is Local: National Politics at the Grassroots*. Oxford: Oxford University Press, 2005.
- Carty, Kenneth, et al. *Rebuilding Canadian Party Politics*. Vancouver: UBC Press, 2000.
- Corrado, Anthony, et al. *The New Campaign Finance Sourcebook*. Washington, DC: Brookings Institute Press, 2005.
- Congressional Record. 107th Cong., 3 Apr. 2001: 3334-3335.
- Dawson, Anne. "Conservative Fundraising Outpaces Liberals by 3-1." *Calgary Herald*, 6 Aug. 2005, A8.
- Doherty, David. *Mr. Smith Goes to Ottawa: Life in the House Of Commons*. Vancouver: UBC Press, 1992.
- Dominguez, Casey and Kathryn Pearson. "Big Dollars, But How Much Change? An Analysis of Soft Money Donors Post-BCRA." *Proc. of the 2005 Annual Meeting of the Midwest Political Science Association*. Chicago, Illinois, April 7-10, 2005.
- Dworkin, Ronald. "The Curse of American Politics." *New York Review of Books* 43 (17 Oct. 1996): 19-24.
- "FEC Candidate Summary Reports – Candidate ID H0WA02080." n.d. <[http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?\\_06+H0WA02080](http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?_06+H0WA02080)> (23 Feb. 2007).
- "FEC Disclosure Report Search Results." n.d. <[http://query.nictusa.com/cgi-bin/can\\_give/1999\\_H0WA02080](http://query.nictusa.com/cgi-bin/can_give/1999_H0WA02080)> (23 Feb. 2007).
- "Federal Election Commission Advisory Opinion 1978-10." 29 Aug. 1978, <<http://ao.nictusa.com/ao/no/780010.html>> (27 Jun. 2006).
- "Federal Electoral District Profile." n.d. <<http://www12.statcan.ca/english/census01/products/standard/fedprofile/RetrieveTable.cfm?R=FED03&G=59024>> (1 Mar. 2007).

- "Federal Sponsorship Scandal." *In Depth: Sponsorship Scandal*. 19 Jun. 2006, <<http://www.cbc.ca/news/background/groupaction/>> (23 Aug. 2006).
- Green, Mark. *Selling Out: How Big Corporate Money Buys Elections, Rams Through Legislation, and Betrays Our Democracy*. New York: HarperCollins Publishers Inc., 2002.
- "History of Federal Ridings Since 1867." n.d. <<http://www.parl.gc.ca/information/about/process/house/hfer/hfer.asp?Language=E&Search=Det&rid=952&Include=>> (25 Feb. 2007).
- Introduction to Bipartisan Campaign Reform Act of 2002 (BCRA). n.d. <<http://www.citizen.org/congress/campaign/legislation/bcralaw/articles.cfm?ID=15196>> (13 Aug. 2006).
- Iverson, John. "Party Needs Help: Liberals: Internal Report Urges Pre-Election Overhaul." *National Post*, 25 August 2006: A1.
- Jacobson, Gary C. "The Effects of the AFL-CIO's 'Voter Education' Campaigns on the 1996 House Elections." *Journal of Politics* 61 (Feb. 1999): 185-194.
- Jacobson, Gary C. *Money in Congressional Elections*. New Haven, CT: Yale University Press, 1980.
- Johnston, Richard, et al., *Letting the People Decide: Dynamics of a Canadian Election*. Montreal: McGill-Queen's University Press, 1992.
- Kolodny, Robin, et al. "The Pennsylvania Thirteenth Congressional District Race." *Proc. of the 2005 Annual Meeting of the Midwest Political Science Association*. Chicago, Illinois, April 7-10, 2005.
- LeDrew, Stephen, "Political Parties, Money, and Public Policy." *Policy Options* 26 (Oct. 2005): 69-71.
- Lewis, Charles. *The Buying of the President 2004*. New York: HarperCollins Publishers, Inc., 2004.
- MacIvor, Heather. "Shining a Harsh Light on Political Financing." *Policy Options* 26 (June 2005): 34-40.
- Malbin, Michael, ed. *Life After Reform: When the Bipartisan Campaign Reform Act Meets Politics*. New York: Rowman & Littlefield Publishers, Inc., 2003.
- Malbin, Michael, ed. *Money and Politics in the United States: Financing Elections in the 1980s*. Chatham, NJ: Chatham House Publishers, Inc., 1984.

- McConnell v. FEC, 540 U.S. 93 (2003).
- "McConnell v. FEC: Litigation Over the Bipartisan Campaign Reform Act of 2002." n.d. <<http://www.citizen.org/congress/campaign/legislation/bcralaw/articles.cfm?ID=8521>> (16 Aug. 2006).
- MacDermid, Robert. "Toward an Investment Theory of Canadian Electoral Politics." *Proc. of the 2001 Annual Meeting of the Canadian Political Science Association*. Quebec City, Quebec, May 27-29, 2001: 1-21.
- "MoveOn.org: Democracy In Action." n.d. <<http://www.moveon.org/about.html>> (8 Feb. 2007).
- Mutch, Robert E. "The Evolution of Campaign Finance Regulation in the United States and Canada." In *Comparative Issues in Party and Election Finance* ed. by Leslie F. Seidle. Ottawa: Dundurn Press, 1991.
- O'Rourke, P.J. "Incumbent-Protection Acts: Campaign-Finance Reform—An Explanation." *Atlantic Monthly* 295 (Apr. 2005): 36.
- Peabody, Robert, et al., *To Enact a Law: Congress and Campaign Financing*. New York: Praeger, 1972.
- "Profile of General Demographic Characteristics: 2000." n.d. <<http://censtats.census.gov/data/WA/5005302.pdf>> 20 Feb. 2007.
- "Regulation of Election Activities by 'Third Parties': Overview and Statements by the Chief Electoral Officer." 27 Aug. 2004. <<http://www.elections.ca/content.asp?section=pol&document=thiinf&dir=thi&lang=e&textonly=false>> 5 Jul. 2006.
- Sabato, Larry J. *PAC Power: Inside the World of Political Action Committees*. New York: W.W. Norton & Company, 1984.
- Sabato, Larry J. *Paying for Elections: The Campaign Finance Thicket*. New York: Priority Press Publications, 1989.
- Sabato, Larry J., ed. *Toward the Millenium: The Elections of 1996*. New York: Priority Press Publications, 1989.
- Sandler, Joseph E. and Neil Reiff. "The '527' Fuss Explained." *Campaigns & Elections* 25 (Aug. 2004): 40-41.
- Sandler, Joseph and Neil P. Reiff, "New Campaign Finance Rules and the 2004 Elections." *Campaigns and Elections* 26 (Feb. 2005): 35-36.



- Sayers, Anthony, and Lisa Young. "Election Campaign and Party Financing in Canada." *Democratic Audit of Australia*. Sep. 2004  
<[http://democratic.audit.anu.edu.au/papers/20040908\\_sayers\\_young\\_elect\\_finance.pdf](http://democratic.audit.anu.edu.au/papers/20040908_sayers_young_elect_finance.pdf)> (3 Aug. 2006).
- Smith, Jennifer and Herman Bakvis. "Changing Dynamics In Election Campaign Finance: Critical Issues in Canada and the United States." *Policy Matters* 1 (July 2000): 4-40.
- Stanbury, W.T. *Money In Politics: Financing Federal Parties and Candidates In Canada*. Ottawa: Dundurn Press, 1991.
- Stanbury, W. T. "The Mother's Milk of Politics: Political Contributions to Federal Parties in Canada, 1974-1984." *Canadian Journal of Political Science* 19 (Dec. 1986): 795-821.
- "Taking Back the House." n.d.  
<[http://moveon.org/content/pac/pdfs/mo\\_report\\_2006.pdf](http://moveon.org/content/pac/pdfs/mo_report_2006.pdf)> (27 Feb. 2007).
- Tanguay, B. and B. Kay. "Third Party Advertising and the Threat to Electoral Democracy in Canada: The Mouse that Roared." *International Journal of Canadian Studies* 17 (Spring 1998): 57-79.
- Taylor, Andrew, et al. "McCain-Feingold Survives Hard Fight Over Soft Money." *CQ Weekly* 59 (31 Mar. 2001): 698-702.
- U.S. House. *Bipartisan Campaign Reform Act of 2002*. 107th Cong., 1<sup>st</sup> sess., H.R. 2356.
- U.S. Senate. Senate Governmental Affairs Committee. *1997 Special Investigation in Connection with 1996 Federal Election Campaigns: Final Report*. 105<sup>th</sup> Cong., 1<sup>st</sup> sess., 1997.
- Walsh, Mark. "Using the Web the Way Dean Did." *Newsweek*, 23 Aug. 2004, 14.
- West, Darrell, and Burdett A. Loomis. *The Sound of Money: How Political Interests Get What They Want*. New York: W.W. Norton, 1998.
- Willis, Derek. "Debating McCain-Feingold." *CQ Weekly* 59 (10 Mar. 2001): 524-527.