



Reforming Political Party Funding in the UK: Lessons from Canada

Stephen Crone, August 2011

1. Introduction

Despite sweeping reform by the *Political Parties, Elections and Referendums Act* in 2000, the UK system of party funding regulation continues to be dogged by periodic scandal and pervasive public distrust. The case for further reform to detoxify the issue is now widely-accepted within all the major political parties, and has been echoed by a succession of official reviews. Yet cross-party agreement on the precise structure of a new financial regime has thus far proven stubbornly elusive.

The troubled experience of the UK is often perceived to contrast with that of Canada, where a far more comprehensive system of regulation and public funding operates. Almost every major official review of party funding during the past decade has examined the Canadian system to some extent, and most have offered a highly positive – albeit perfunctory – judgment of its merits. Indeed, it would come as little surprise if the Committee on Standards in Public Life – the latest body charged with reviewing party funding – also draws on Canadian experience when it reports later this year. Yet there are arguably good reasons to regard the supposed merits of the Canadian system with a healthy degree of scepticism. The extent to which previous inquiries' analyses of the Canadian system can be substantiated by sound empirical evidence is by no means clear; while recent developments in Canada itself suggest that there may, in fact, be hidden perils associated with the Canadian reform trajectory.

Through exploring the facets of the Canadian system, this paper seeks to present a fair assessment of its merits, while at the same time using Canadian experience to answer a number of questions which bear upon the current UK reform agenda. My analysis is presented in three parts. The *first* section of the paper offers a brief history of the Canadian regulatory framework; the *second* separates myths and realities about the current system; whilst the *third* identifies practical issues which make it difficult for the UK to adopt the Canadian approach to reform. The final section offers some brief concluding thoughts.

2. The regulation of Canadian political finance: a short history

The first Canadian foray into political finance regulation came in 1874, with the *Dominion Elections Act* establishing a very limited system of candidate expenditure reporting. Based on Britain's *Corrupt Practices Act* of 1854, the legislation was passed largely in response to the "Pacific Scandal" of 1873. Further efforts at reform were attempted during the first half of the twentieth century, but these are

generally considered to have been piecemeal and ineffectual.¹ Indeed, the first ‘major’ reform of Canadian party funding law did not arrive until a hundred year after the *Dominion Elections Act*, when, in 1974, the *Election Expenses Act* was passed with the support of what were then Canada’s three largest parties² (for details of the Act, see Box 1). The 1974 Act marked a sea change in Canada’s approach to party finance regulation; the liberal Victorian legacy was ditched, and was replaced instead by a more rigorous system of expenditure controls, increased transparency and moderate public funding. By successfully addressing the growing concern with the Canadian system of political finance, moreover, the Act lasted more or less unchanged for almost thirty years – a longevity which many have attributed to its general effectiveness.³

Box 1: The *Election Expenses Act* (1974)

Through amendments to the *Canada Elections Act*, the *Election Expenses Act* introduced:

- 1) Expenditure limits: spending by candidates, political parties and third parties was capped for federal elections.⁴
- 2) Disclosure requirements: candidates and parties were required to submit details of their revenues and expenditure.
- 3) Enforcement: an independent commissioner was appointed, charged with ensuring compliance with the new regulations.
- 4) Indirect state funding: tax credits were introduced for donations up to a certain limit; certain campaign expenses became eligible for reimbursement by the state – provided eligibility criteria were met.
- 5) Free broadcasting time: rules were introduced to ensure the free and fair allocation of broadcasting time to political parties.

The long period of regulatory stability inaugurated by the *Election Expenses Act* of 1974 was brought to an abrupt end in 2003, however, when a major package of party funding reforms was passed by Jean Chretien’s Liberal government. A response, in part, to the series of damaging political scandals which had beset the governing party,⁵ Chretien’s Bill C-24 altered the landscape of Canadian political

¹ C. Feasby, “Constitutional Questions About Canada’s New Political Finance Regime”, *Osgoode Hall Law Journal*, 45, 3 (2007), pp. 519-520.

² L. Young, “The Regulation of Political Finance in Canada: A Democratic Audit”, paper prepared for: *Comparing the Democratic Deficit in Canada and the United States* (2008), p. 3.

³ L. Young, “Regulating Campaign Finance in Canada: Strengths and Weaknesses”, *Election Law Journal*, 3, 3 (2004), p. 460.

⁴ Though the limits on third party spending were subject to various legal challenges, and were only truly cemented in the previous decade.

⁵ For details of the “Adscam” scandals which raised these concerns, see D. Davidson, “Political Financing in Canada: Achieving a Balance”, *International Conference: Law and Society in the 21st Century* (2007), p. 9.

finance dramatically. Yet unlike the *Election Expenses Act* of 1974, Bill C-24 did not command full cross-parliamentary support: the Progressive Conservative Party and the Canadian Alliance both opposed the Liberals' bill, and their successors – the Conservative Party – have since gone on to make further radical changes to the laws when in minority government between 2006 and 2011. Indeed, Stephen Harper's newly-elected majority government has recently announced its intention to phase out one of the cornerstones of the 2003 settlement, the money-per-vote subsidy, in a move which is widely-expected to have devastating financial consequences for Canada's opposition parties.⁶

Box 2: Provisions of the current system

The Liberals' amendments to the *Canada Elections Act* and the *Income Tax Act* by Bill C-24 in 2003 – as well as the Conservatives' own *Accountability Act* of 2006 – have created a system with the following additional features:

- 1) Donation caps: trade unions and corporations are no longer permitted to donate to candidates or political parties. Individual donations are allowed, but are capped at \$1,100.⁷
- 2) Enhanced disclosure requirements: all political entities – including district party associations, nomination contestants, leadership contestants, third parties, political parties and federal election candidates – must now register and report with Elections Canada. Parties must submit quarterly reports.
- 3) Enhanced expenditure limits: nomination candidates are now also subject to spending limits.
- 4) Direct state funding: parties receive a quarterly allowance based on the number of votes won at the previous general election, now set at a rate of \$2.04 per vote after adjustments for inflation.⁸
- 5) Increased indirect state funding: the tax credit scheme was extended and the level of reimbursement for campaign expenses was increased.

During the previous decade, the Canadian regulatory system has thus shifted rapidly from a regime of spending controls and moderate public funding, to a system where both income and expenditure are exhaustively regulated and parties depend to a far greater extent on public funds (for further details of the current system, see Box 2). **This makes Canada unique among countries of the Westminster tradition: neither the UK, New Zealand or Australia have sought to restrict party income to the same extent as Canada, or offer such generous public subsidies.** Yet the failure of the Liberals to implement this new system consensually arguably placed it in jeopardy from the very

⁶ The Conservatives had previously tried, and failed, to do this once before, when governing as a minority.

⁷ Under the 2003 amendments, trade union and corporate donations were almost proscribed; the Conservative changes of 2006, however, banned them completely.

⁸ When the subsidy was introduced, it was set at a rate of \$1.75, with adjustments since allowed for inflation.

beginning. Indeed, by establishing a precedent for unilateral action with respect to party funding regulations, the issue has since become something of a ‘political football’⁹ – with additional, partisan reforms passed by the Conservatives which entrench the advantages accidentally granted to them by the Liberals’ legislation of 2003.¹⁰

3. Canadian party funding regulations under the microscope

Though its future may now be imperilled following the election of a Conservative majority government, the system of party finance regulation introduced by the Liberals in 2003 – which includes the now doomed money-per-vote public subsidy – has actually had a number of salutary effects on Canadian democracy. Admittedly, these benefits are scarcely ever the ones imagined by UK official inquiries into party funding. There is little evidence, for instance, to support the expectation that the per-vote-public subsidy would promote stronger local party organisation in Canada,¹¹ or indeed that it would ‘get the vote out even in those areas where [parties] did not traditionally succeed’.¹² Similarly, the Constitutional Affairs Committee’s bold claim that the Canadian example shows how ‘radical changes in the way party finance is regulated and supported’ are possible ‘without losing the traditional links between institutions and parties even when financial links are removed’, only captures half of the truth.¹³ Although, overall, the Committee was correct that, in Canada, the NDP-union link has persevered despite the banning of trade union donations to political parties, its very brief account necessarily failed to mention any of the other negative or ambiguous side-effects that the ban has had on the relationship between the two groups.¹⁴

⁹ See T. Flanagan and D. Coletto, “Replacing Allowances For Canada’s National Parties?”, *The University of Calgary: School of Social Policy Briefing Papers*, 3, 1 (2010), p. 12.

¹⁰ It is almost universally acknowledged that the provisions of the *Accountability Act* have worked primarily to the disadvantage of the Tories’ then main rivals, the Liberal Party. However, the scrapping of the money-per-vote public subsidy is likely to harm all the opposition parties, as they rely on the per-vote subsidy for a far greater percentage of their income than the Conservatives do. Indeed, data compiled for the years 2004 to 2009 shows that while the subsidy represented 36.6 per cent of Liberal Party income, 36.5 per cent of NDP income, 45.2 per cent of Green Party income and 62.2 per cent of Bloc Quebecois income, it only accounted for 26.2 per cent of Conservative Party income over the same period (see A. Funke, “Expanding the Debate on Party Financing”, *The Globe and Mail*, 12 August 2010, <<http://www.theglobeandmail.com/news/politics/expanding-the-debate-on-party-financing/article1670270/>>).

¹¹ This claim was made in House of Commons Constitutional Affairs Committee, *Party Funding: First Report of Session 2006-07* (2006), p. 47, but would appear to be mistaken. In fact, if anything, the structure of the per-vote subsidy appears to have contributed, in part, to the trend towards greater centralisation of party finances (for which, see D. Coletto, H. Jansen and L. Young, ‘Election Finance Law and Party Centralization in Canada’, *Paper Presented to the Canadian Political Science Association* (2009), p. 23.) Of course, there are likely to be a number of other factors at work, here – including the fact that individual donations are primarily collected through internet, telephone and direct mail initiatives organised by national parties, rather than local party associations that are inadequately equipped to perform such functions (see Young, ‘The Regulation of Political Finance in Canada: A Democratic Audit’, p. 21).

¹² Another claim made in CAC, *Party Funding*, p. 47; but rebutted by Young, “The Regulation of Political Finance in Canada: A Democratic Audit”, p. 8.

¹³ CAC, *Party Funding*, p. 54.

¹⁴ See H. Jansen and L. Young, “Solidarity Forever? The NDP, Organized Labour, and the Changing Face of Party Finance in Canada”, *Canadian Journal of Political Science*, 42, 3 (2009), pp. 657-78.

On the other hand, however, there remain a whole series of positive effects of the current Canadian system which inquiries in the UK have previously failed to consider. Nowhere has it ever been mentioned, for instance, how increased public funding has impacted on diversity within the Canadian party system. This is important, as contrary to critics' concerns that public funding of political parties ossifies party systems,¹⁵ money-per-vote public funding in Canada has in fact opened the door to parties, such as the Greens, that were previously left outside the exclusive parliamentary club.¹⁶ Indeed, one could argue that, in many ways, the introduction of stricter donation restrictions and more substantial public funding has created a far more equitable and democratic balance of financial power in the party system. Ewing, for instance, rightly argues that, although Liberal financial hegemony has, essentially, been replaced by that of the Conservative Party in recent years:

it is hard to deny that this is a better inequality than the inequality that existed before the legislation was introduced. It is better because it is based on levels of grass-roots support, it is an inequality that is not accounted for by large donations from sources of doubtful legitimacy.¹⁷

Similarly, while the Constitutional Affairs Committee's report on party funding may have looked at the impact of trade union and corporate donation bans on the links between the NDP and trade unions, no official report has considered what effects the new donation restrictions have had on political equality. Some argue that by proscribing corporate and union donations, the responsiveness of political parties to ordinary citizens (as opposed to 'special interests') will increase. There is some evidence to suggest that this may have happened in Canada, as although turnout has remained stagnant, the number of individuals donating to political parties did increase by 37,564 over a four year period between 2002 and 2006, representing a 27 per cent increase in the 'pool' of donors.¹⁸

It is impossible, of course, for any party funding regime to fully excise the influence that wealth can have in distorting the democratic process.¹⁹ Despite the egalitarian emphasis of the donation caps introduced in 2003, there is some evidence to suggest that they have led to the emergence of US-style "bundling" techniques to circumvent the law.²⁰ Nevertheless, while the reforms to the Canadian system of party finance may have minor shortcomings, they have also provided clear (if 'modest') benefits.²¹ The legislation has not, of course, created perfect political equality between citizens or led to any real revival in grassroots activity; but it has probably succeeded in reducing political inequalities, increasing the responsiveness of parties to the electorate, opening up the party system, and broadening the parties' funding base. Though donations by individuals to political parties in Canada may continue to create some possibility of plutocratic influence, there is little

¹⁵ See R. Katz and P. Mair, "Changing Models of Party Organization and Party Democracy: the Emergence of the Cartel Party", *Party Politics*, 1, 1 (1995), pp. 5-28.

¹⁶ Young, "The Regulation of Political Finance in Canada: A Democratic Audit", pp. 16-7.

¹⁷ K.D. Ewing, *The Cost of Democracy* (Oxford, 2007), p. 222.

¹⁸ Young, "The Regulation of Political Finance in Canada: A Democratic Audit", p. 12. This increase could also be accounted for, in part, by the decision to make the tax credit system more generous than it had previously been.

¹⁹ Not least because they can still lobby government or spend money as third parties.

²⁰ A. Sayers and L. Young, "Election Campaign and Party Financing in Canada", *Democratic Audit of Australia* (2004), p. 6; Feasby, "Constitutional Questions About Canada's New Political Finance Regime", p. 22.

²¹ Young, "The Regulation of Political Finance in Canada: A Democratic Audit", p. 2.

evidence, moreover, of a ‘big donor’ culture comparable to that in the UK.²² It is for these reasons – rather than the ones imagined by official inquiries – that the attractiveness of the Canadian model to the UK, and elsewhere, is understandable. But just how likely is it that the UK could follow Canada’s lead on party funding law?

4. Importing democracy: transferring Canadian party funding practices to the UK

While there are clearly enormous benefits to be reaped from the implementation of a Canadian-style funding regime that marries donation restrictions with increased public funding, the likelihood of the UK implementing a similar package of reforms in the near future is close to zero. One of the fundamental reasons for this is economic. When the Canadian government introduced increased public funding of political parties during a period of relative international prosperity, it encountered seemingly little public opposition; but any proposal to do the same thing in the UK now – when education, policing and welfare budgets are being cut – is almost certain to provoke widespread public anger.²³ That is not to say that the public are opposed to public funding, in principle. Indeed, opinion polls show that public support for public funding – *and* donation caps – is at similar levels to Canada, where such features are already a part of the system.²⁴ However, politicians are probably right to suspect that any considerable increase in public funding to political parties would be impossible to achieve politically now, during a time of fiscal retrenchment – especially with the memory of the MPs’ expenses scandal still fresh in the mind of many voters.

Consequently, the only aspect of the Canadian system which could be introduced immediately in the UK are the restrictions on party income. Yet these measures are unlikely to be acceptable to all the major parties – even if proposed in a ‘watered-down’ form. Indeed, Democratic Audit has previously warned that to immediately introduce a donation cap without a compensatory amount of state funding could risk leaving political parties in a state so financially anaemic that they are unable to discharge the essential democratic functions which they provide.²⁵ Though the effects of a cap on income levels would be severe for all parties, the Labour Party, in particular, would be especially unlikely to agree to a cap or ban on institutional donations due to its dependence on large contributions from the trade unions. In fact, even if generous public funding *were* part of a proposed settlement, the Labour Party would still not be nearly as likely to accept the severance of its union links as, say, the NDP was, as the circumstances that the NDP faced are very different to those which confront Labour. When Chretien’s reforms to party funding were passed in 2003, the NDP was the ‘third’ party in Canadian politics; it was less financially dependent on trade unions than the Labour Party is; and it expected to capitalise politically from its support for the changes.²⁶ In contrast, the Labour Party – as a “natural” party of government²⁷ which relies to a great extent on financial

²² Although this was also true since 1974 – long before the introduction of donation limits.

²³ As representatives of both the major parties have recently conceded. See The Committee on Standards in Public Life, *Transcript of the Committee on Standards in Public Life Preliminary Hearing on Party Funding* (2010), pp. 20, 34.

²⁴ See Canada Election Studies, 2004-08, <<http://www.queensu.ca/cora/ces.html>>; and JRRT State of the Nation polls, 1991-2010, <<http://www.jrrt.org.uk>>.

²⁵ See S. Wilks-Heeg and S. Crone, *Funding Political Parties in Great Britain: A Pathway to Reform*, Democratic Audit (2010).

²⁶ Ewing, *The Cost of Democracy*, p. 222.

²⁷ *Ibid*, p. 222.

support from trade unions – has far more to lose from changes to party funding rules, and can be expected to behave more conservatively, as a result. As Jansen and Young acknowledge, the fact that party-union links in Canada have never been as strong in organisational or ideological terms as in West European countries, such as the UK, can also help explain why the Labour Party may be more reticent to alter the basis of their relationship with the unions than the NDP was in 2003.²⁸

Given all this, it seems logical that if the coalition government wishes to quickly introduce elements of a Canadian system of party funding regulation, such as donation restrictions, it will have to adopt Canadian means.²⁹ This would involve the abandonment of the convention that party funding reform ought to be achieved consensually, and its replacement instead by a willingness to legislate *without* cross-party agreement. Yet the risks associated with such a strategy are great. As we have seen, Canada has suffered toxic side-effects from Jean Chretien’s decision to disregard the precedent set in 1974, when the parties cooperated and forged a consensus on party funding. Where once party funding laws, there, were stable and parties worked together, now the issue has become bitterly-disputed and unpredictable. Of course, the final decision on how to proceed with reform in this country rests with the government. But in making that decision, it should be mindful of the possibility that the benefits which accrue from passing party funding reforms unilaterally may be outweighed by the long-term instability which could result from violating the convention for consensual decision-making.

5. Conclusion

Over a period of nearly 140 years, the Canadian framework of party funding regulation has undergone a total transformation; from a liberal system of minimal regulation that was broadly consistent with other countries in the Westminster tradition, it has evolved by stages towards an egalitarian system of comprehensive controls and extensive public funding.³⁰ As with any regime for regulating political finance, the Canadian system is not perfect: bans on trade union contributions have arguably weakened historic union-party links; measures to link party funding to electoral performance have failed to yield greater turnouts; and party centralisation has continued unabated. However, these minor shortcomings should not be blown out of proportion. Reform has also brought tangible benefits for Canadian democracy, and the Canadian system – for now, at least – is correctly regarded by many as one of the best in the world.³¹

And yet while Canada’s new regime of federal party funding regulation has had many salutary effects on the quality of Canadian democracy, the decision to adopt a unilateral approach to change in 2003 has also left an unenviable legacy of partisan reform, as well as uncertainty over how the regulatory structure may evolve in the near future. **For the UK, this experience should be regarded as a cautionary tale.** Here, the lack of consensus between political parties has acted as a block on party funding reform in recent years, as everyone has tended to agree that no solution to the vexed

²⁸ Jansen and Young, “Solidarity Forever?”, p. 662.

²⁹ Or else come to some arrangement whereby trade unions are given an exemption from the donation caps.

³⁰ Davidson, “Political Financing in Canada”, p. 2.

³¹ See Davidson, “Political Financing in Canada”, p. 15; and for a favourable judgment of the Canadian system *before* the 2003 reforms were passed, Nassmacher, “The Funding of Political Parties in the Anglo-Saxon Orbit”, p. 33.

question should be implemented before first arriving at a full and comprehensive agreement.³² However, with the latest official review – this time by the Committee on Standards in Public Life – set to report at some point this year, there are already ominous signs that the coalition government may be willing to break this convention, if necessary, in order to finally move beyond the impasse in inter-party negotiations and make good on its pledge to ‘remove big money from politics’.³³

Although waiting for political parties in the UK to agree on reforms to party funding laws may sometimes seem a bit like waiting for Godot, the analysis presented here suggests that consensus is still the best route to a fair, sustainable party funding settlement. However, that is not to say that *any* consensus will do. Though it would certainly be a grave mistake for the coalition government to proceed with party funding reforms without first securing full, cross-party agreement, it must also be mindful of the fact that anything less than radical reform is unlikely to dispel public cynicism vis-à-vis the party funding system in the long-term. Unfortunately, radical reform does not seem like a likely outcome from the current reform discussions. Provisions for a big increase in public funding will almost certainly be omitted from a hypothetical coalition party funding bill – a decision which will also necessarily rule out a low donation cap. This would be an understandable decision, in some respects, given that the notion of public funding is anathema to many MPs and members of the public, at present. Yet it would also be incredibly short-sighted. Indeed, the question for the major political parties is whether reform of party funding *now* is really the right option, when any consensual settlement hammered out between them – piecemeal and paltry, as it is likely to be – will merely serve to postpone the date of further, more meaningful reform; while any unilateral solution is likely to create turmoil and instability in UK party funding arrangements for years to come.

³² See, for instance: A. Tyrie, *Clean Politics* (2006); Ministry of Justice, *Party finance and expenditure in the United Kingdom: The Government’s Proposals* (2008); and H. Phillips, *Strengthening Democracy: Fair and Sustainable Funding of Political Parties* (2007).

³³ The pledge to ‘remove big money from politics’ was made in *The Coalition: Our Programme for Government* (2010), p. 21,

<http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_187876.pdf> The possibility that the coalition government may reform the party funding system without full cross-party agreement was arguably alluded to when Nick Clegg and Conservative MP Mark Harper gave

evidence to the Political and Constitutional Reform Committee (see *Evidence Taken Before the Political and Constitutional Reform Committee*, 12 May 2011,

<<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpolcon/c358-ii/c35801.htm>>. The deputy

prime minister made known his support for a consensual solution, but noted that in the past this approach had proven ‘complex’ and ‘very difficult’.

His coalition colleague, Harper, suggested that: ‘I think that what the [Committee on Standards in Public Life] is trying to do is come up with a set of ideas and proposals that it hopes will, if not attract consensus, at least be the basis for there to be *some* consensual outcome between the parties.’ While these statements are by no means an explicit endorsement of a more unilateral approach

to reform, we might still infer from Clegg and Harper’s statements that the government is at least willing to countenance a reform solution which enjoys less than unanimous support. This possibility is supported by

claims made by the *Guardian* (see ‘Tories “want to use £50,000 cap on party funding to cripple Labour”’, *Guardian*, 29 May 2011, <<http://www.guardian.co.uk/politics/2011/may/29/tories-want-to-cripple-labour>>.),

also in May, that ‘there are now signs ... that the Tories and Lib Dems might seek to push ahead without full Labour backing.’

ABOUT DEMOCRATIC AUDIT

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