

Crandall, Erin, and Andrea Lawlor. 2014. "Third Party Election Spending in Canada and the United Kingdom: A Comparative Analysis." *Election Law Journal: Rules, Politics, and Policy* 13 (4): 476-492.

Third Party Election Spending in Canada and the United Kingdom: A Comparative Analysis

Erin Crandall and Andrea Lawlor

ABSTRACT

Both the United Kingdom and Canada recently implemented substantial revisions to their electoral laws, including policy measures designed to regulate third parties. Despite similar policy objectives, the limits placed on third parties vary significantly between the two countries, leaving the potential for significant differences in practice. Using an original dataset, this article undertakes a comparative study of recent national elections in each country (UK: 2005, 2010; Canada: 2004, 2006, 2008) to evaluate policy outcomes. Our analysis finds that while there are differences in both the number of third parties and the range of spending in Canada and the UK, one commonality is apparent: there is no "typical" third party in either country. As anticipated, given differences in spending limits, UK third parties outspent their Canadian counterparts; however, in both countries third parties rarely came close to spending to their limits. Rather, third parties are found to play a limited role, at least as measured via absolute spending.

In a landmark 2010 decision, *Citizens United v. Federal Election Commission*,¹ the Supreme Court of the United States struck down long-standing laws that had prohibited corporations and unions from directly funding political advocacy campaigns during federal elections. However, it was not until the 2012 federal election, which saw political action committees (Super PACs) spend more than half-a-billion dollars, that the true impact of the case was felt (Singer-Vine 2012). While unquestionably an important development in American election policy, the rise of Super PACs can be viewed more generally as one of the latest manifestations of an inevitable tension faced by all democracies: the challenge of balancing the right of groups to participate freely in elections, while at the same time making

¹ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

sure that those with superior financial resources do not overwhelm political communications and campaigning. Placing the political principles of liberty and equality in direct competition, the resolution of this tension is by no means a straightforward one, and unsurprisingly has fostered animated debates in the political, legal, and academic spheres.² While never fully resolved, these debates inevitably reveal that the question of what role money should play in elections is both an important and difficult one to answer.

In considering how different countries attempt to balance the tensions between money and electoral participation, third parties offer a particularly useful opportunity for study. Third parties (or independent parties) include persons or groups, other than a political candidate, registered political party, or constituency association, who participate in elections. While their size and organization can vary significantly, third parties are united in their interest to promote a particular issue. Their motives, though not always partisan, are always political. Third parties may not always be a primary focus of reform demands, however, their role in elections must inevitably be addressed. Consequently, any reforms looking to manage the impact of money in elections must consider how to balance spending not just by parties and candidates, but also third parties.

Calls for, and in some cases, implementation of electoral finance reform in recent years have helped to foster a growing body of literature on the topic in consolidated democracies (Boatright 2011; Ewing and Issacharoff 2006; Young and Jansen 2011b). Given the cascading effects that even minor reforms may have, one of the important tasks for students of electoral politics is to unpack such effects. How do governments go about designing their policies on third party spending and more importantly, what are the results?

² For a discussion of the competing principles at play in electoral financing see Yasmin Dawood, 'Democracy, Power, and the Supreme Court: Campaign Finance Reform in Comparative Context', *International Journal of Constitutional Law*, 4/2 (2006), 269-93.

To better understand the performance of third party policies, a comparative approach to analysis has particular value. For example, while some governments may articulate similar principle-based objectives in regulating electoral financing, how these objectives are articulated in policy may vary, and, moreover, their implementation may result in very different outcomes. While some single case studies analysing the performance of third party policies have been undertaken in Canada and the United Kingdom (UK) (Couture Gagnon and Palda 2011; Lawlor and Crandall 2011; Russell et al. 2008), studies from a comparative perspective have been considerably more limited (exceptions include: Clift and Fisher 2004; Feasby 2003).

Recent reforms to third party election policies in Canada and the UK offer a unique opportunity to begin to fill this gap. Since 2000, both countries have introduced major electoral finance reforms, including changes to spending limits for third parties. Interestingly, the two countries shared similar objectives in introducing these recent reforms: that third parties should not play a dominant role in election advertising. The institutional similarities of the two countries are also considerable, including, Westminster-style parliamentary governments, multi-party systems, clear alignment between interests and parties (e.g. trade unions and the left, business and the right), and political traditions that accept political parties and candidates as the primary players of democratic politics.

To undertake this comparative analysis, we provide historical overviews of electoral policy reforms in both the UK and Canada, highlighting key differences and similarities of the two policy regimes. From there, we use an original dataset to analyse the empirical data on third party spending in the elections that followed these recent policy reforms (UK: 2005, 2010; Canada: 2004, 2006, 2008). We then consider some of the apparent enforcement

challenges of these policies. Finally, we conclude with some thoughts on the possible impact of reforms on third party participation.

Altogether, our analysis finds that while there are differences in both the number of third parties and the range of spending in Canada and the UK, one commonality is apparent: there is no ‘typical’ third party in either country. As anticipated, given differences in spending limits, UK third parties outspent their Canadian counterparts over this comparative series of elections. However, while outspending Canadian third parties by a fairly large margin, rarely do third parties in either country come close to spending to their limits. These findings are especially notable for the UK where more stringent third party spending measures were implemented in January 2014. Rather, in both countries, third parties are found to play a very limited role, at least as measured via absolute spending.

The History of Third Party Spending Regulations

The United Kingdom

Early election regulations in Britain were designed with the assumption that the primary campaigner was the individual, not the party. In turn, a laissez faire approach was taken at the national level – where political parties and third parties alike faced no spending restrictions. As a result, while election finance policies were in place at the local level by 1883, a policy vacuum existed at the national level for over a century. Modern campaign spending regulation began with the 1983 Representation of the People Act. The act continued the tradition of placing strict restrictions on third party advertising that targeted candidates (to a maximum of £5 per constituency); however, advertising that made no direct mention of candidates or parties remained unregulated (Ewing 2003: 503). As elections came to be fought increasingly at the national level, some third parties took advantage of these

spending opportunities. For the 1997 election, for example, the union UNISON is estimated to have spent more than £1,000,000 on non-regulated third party advertising (Kavanagh and Butler 1997: 242).

The perceived weaknesses of the UK's election regulations were confronted in the 1990s. First came a legal challenge to the £5 spending cap for third parties. After being charged for breaking the limit during the 1992 Parliamentary elections campaign, Phyllis Bowman, a citizen, challenged the legality of the measure, arguing that the spending restriction violated her right to freedom of expression under Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Eventually heard by the European Court of Human Rights, the court sided with Bowman, ruling in 1998 that the £5 limit amounted to a violation of her freedom of expression.³

The influence of money in British elections was a source of increasing concern during this period as well. The effect of foreign sources over domestic politics, the use of donations for patronage appointments, and the perception that parties' fundraising had given rise to a spending "arms race" were frequently cited worries. In the 1997 election alone, the two main parties spent approximately £26m (Labour) and £28m (Conservative) (Ewing 2003: 500). Such concerns helped to trigger an investigation on campaign finance by the Neill Committee on Standards in Public Life in 1998. The all-party committee, led by Lord Patrick Neill, provided a series of recommendations to modernize election law in Britain, including the disclosure of public donations to parties and placement of direct limitations on electoral spending at the national level. The Neill Committee also touched on third party spending, including recommendations to: increase the limit on third party spending to £500;

³ *Bowman v. United Kingdom*, App. No. 24839/94, 26 Eur. H.R. Rep. 1 (1998).

and, extend spending limits on third parties to communications that implicitly promoted or opposed a party.

In response to the Committee's recommendations, the Political Parties, Elections and Referendums Act 2000 (PPERA) was passed, coming into force in February 2001. The PERPA legislated the creation of an Electoral Commission tasked with overseeing the electoral law for parties, candidates, and third parties. There remains no limit to how much any person or group can give to a political party. However, since the Act's implementation, the Electoral Commission has published reports disclosing money raised in excess of £5000 nationally and £1000 locally and spent by registered political parties. Ceilings on party spending were set at £30,000 per contested constituency during the campaign period, with a total cap set at £16.3M per party (2001 figures). The Act also placed the first real restrictions on national third party spending. During the campaign period, consisting of the 365 days leading up to Election Day, spending for each third party was capped at £793,500 in England, £108,000 in Scotland, £60,000 in Wales, and £27,000 in Northern Ireland. Spending at the local level was also adjusted, increasing to £500. Any third party planning to spend more than £10,000 in the UK or £5000 in any of the devolved parliamentary units must register with the Commission and fully disclose all expenditures.

Two further legislative actions, The Electoral Administration Act 2006 (EAA) and The Political Parties and Elections Act 2009 (PPEA), extended campaign expenditure controls to loans and other borrowing, and increased the threshold for permissible and reportable donations respectively, but made no additional changes to third party regulations. Though third party spending was not part of these legislative measures, it has recently returned to the policy agenda. A 2011 report by the Committee on Standards in Public Life concluded that third party spending in the UK did not appear subject to abuse (Committee

on Standards in Public Life 2011: 76); nevertheless, in January 2014 the British government passed the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act, which among a number of measures, places stricter spending limits and reporting requirements on third parties. Despite no obvious instances of electoral fraud or manipulation by third parties, the government argued reforms were needed “...to avoid the situation we see in other countries, where unregulated spending by vested interests means that it might not always be the best candidate who wins an election, but the one with the richest supporters” (Cabinet Office 2013). The spending threshold for mandatory registration for third parties was raised from £10,000 to £20,000 in England and to £10,000 for Scotland, Northern Ireland, and Wales. The spending limits for third advertising were also changed. Spending targeted at candidates was slightly increased from £500 to £700 in order to adjust for inflation. Issue-based advertising, however, was significantly reduced so that it now stands at 2% of political parties’ maximum campaign expenditure limit. For England this means a limit of £319,800 for general advertising, a 60% drop from the current limit of £793,500, and a new limit of £31,980 for party-targeted advertising.

[Table 1 approximately here]

Canada

In comparison to the UK, Canadian election finance has been the subject of considerably more regulation and judicial attention. As Stephen Crone points out, no other Westminster system has “sought to restrict party income to the same extent as Canada...” (Crone 2011: 3). Despite such restrictions, political parties at the federal level are deeply imbedded in Canada’s institutional structure, while interest groups are generally viewed as relatively weak (Boatright 2009; Presthus 1973). Instead, interests have tended to become

institutionalized within parties, thereby rendering them the key actors in the development of policy directions and the primary links between citizens and the state.

Despite the dominance of political parties, regulating third parties through campaign finance legislation has been a near preoccupation of Canadian governments in the past few decades. The first effort to regulate parties' financial activity came with the 1974 Election Expenses Act, which banned all actors other than candidates or political parties from engaging in election spending. The inclusion of a "good faith" exemption, however, allowed spending that directly supported a policy issue or promoted goals not associated with a particular political party. The vagueness of the provision provided an effective loophole for third parties. Though not obviously subject to abuse, the "good faith" provision was removed in 1983. This prompted an interest group, the National Citizens' Coalition (NCC), to successfully challenge the legislation as a violation of freedom of expression under the Canadian Charter of Rights and Freedoms.

Moving forward, third party spending went largely unnoticed until the 1988 federal election, where third parties spent an estimated \$4.7 million on advertisements that focussed primarily on the proposed Free Trade Agreement with the United States (Hiebert 1991: 20). Complaints of excessive spending prompted the federal government to establish the Royal Commission on Electoral Reform and Party Financing (The Lortie Commission), which among other issues, was tasked with evaluating the merits of a third party spending ban. Adopting many of the Commission's recommendations, the federal government introduced a \$1000 spending limit for partisan advocacy (while imposing no restriction on issue advocacy) in June 1993. The NCC, once again, successfully challenged these regulations in court, resulting in almost a decade where third parties faced no spending restrictions.

Eventually, the federal government again moved to regulate third party spending in the form of Bill C-2, the Canada Elections Act, 2000. While spending by third parties may have received the most attention from legislators and the courts until this point, the major concern fuelling C-2 was corporate and union contributions to political parties that by 2000 amounted to 51% of party fundraising in Canada (Cross 2004: 147). On third parties, C-2 introduced a set of limits that restricted spending by individuals and groups during the election period (lasting approximately 30 to 40 days). Spending to advance or detract from a candidate's position was limited to \$3000 per constituency and capped at \$150,000 for issue-based advertising. These limits are adjusted for inflation each year (as of 2013: \$200,100 nationally and \$4002 per constituency). Once again the NCC challenged the constitutionality of the legislation on Charter grounds. While successful in the lower courts, in 2004 the Supreme Court upheld the legislation, finding the regulations to be a reasonable limitation on the Charter's guarantee of freedom of expression.⁴

While third party expenditures have not been the subject of further legislative or judicial action, the federal government has taken additional steps to regulate campaign spending directed toward parties and candidates. Prior to the reforms of the mid 2000s, parties and candidates received significant public support via election expense rebates and tax credits for donations, however, private donations constituted the dominant source of income for both parties and candidates (Young and Jansen 2011a: 4). With Bill C-24, Amendments to the Canada Elections Act (2004), this changed dramatically. The legislation severely reduced corporate and union donations to parties to a maximum of \$1000, while individual donations were limited to \$5000. To offset parties' anticipated losses in income via

⁴ *Harper v. Canada (Attorney General)*, [2004] 1 S.C.R. 827, 2004 SCC 33.

private donations, the federal government also introduced a publicly financed quarterly party allowance (a per vote subsidy of \$1.75, indexed to inflation).

Though these campaign-funding limits were some of the most aggressive changes a government could impose short of an outright ban, in 2006 Prime Minister Stephen Harper's Conservative government passed the Federal Accountability Act that reduced the maximum individual contribution from \$5000 to \$1100 (indexed to inflation) and prohibited altogether corporate and union donations to parties and candidates. In 2011, the Conservative government eliminated the per-vote subsidy, which will make parties totally reliant on individual contributions in coming years.

Comparing Policies

As the reviews above illustrate, the evolution of election finance policies in these two countries have followed different trajectories, but have come closer together with more recent reforms. For both countries early efforts to regulate third party spending were informed by an acceptance of parties and candidates as the key actors in elections. In the UK, third party spending was kept at nominal amounts at the local level; likewise, in Canada, early policies aimed to restrict third party activity so that it would not overwhelm the campaign messaging of parties and candidates. In the late twentieth century, both policy regimes were challenged in court by actors who contended that restrictions on third party spending placed unjustifiable limits on their freedom of expression. The success of these court challenges led each country to rework their election finance regulations.

Thus, by 2000, both countries had in place new third party financing limits. While looking to balance similar interests – particularly that money should not overwhelm elections and that political parties and candidates should remain the strongest electoral actors – there

are notable differences in these electoral finance policies. In theory, third parties in the UK currently have the opportunity to play a more prominent role in elections than their Canadian counterparts. A breakdown of third party spending limits makes this point clear. At the riding level, candidates in Canada's 2011 federal election were able to spend up to approximately \$90,000 in their contested electoral district,⁵ while third parties could spend up to \$3765. By comparison, candidates in England were permitted to spend approximately £42,000 (approximately \$64,700 CAD) in their riding in the year leading up to the 2010 UK general election,⁶ and third parties were permitted to spend up to £500 (approximately \$770 CAD). Differences are more striking for spending at the national level. Whereas a federal party running candidates in all electoral ridings in Canada's 2011 election was able to spend up to approximately \$20 million, the limit for third parties was \$188,250. By comparison, parties contesting all ridings in the 2010 UK general election could spend up to £19.5 million (approximately \$30.05 million CAD), whereas third parties could spend up to £793,500 (approximately \$1.22 million CAD). Thus, while third party spending at the constituency level is relatively low in both countries, at the national level, there is a significant difference between the spending powers of UK and Canadian third parties relative to the limits placed on political parties. Whereas a UK third party has a spending cap that, until 2014, amounted to approximately 4% of the spending limit of political parties (a ratio of 1:24), in Canada this

⁵ Spending limits for an electoral district are determined by the number of eligible voters who live in the riding. For the 2011 election, limits for electoral districts ranged from \$69,634.73 to \$134,351.77, for an average election expenses limit of \$91,879.64. See Elections Canada, 'Report of the Chief Electoral Officer on the 41st Election', (Ottawa: Elections Canada, 2011).

⁶ Like in Canada, spending limits for candidates competing in UK general elections are determined by the number of voters living in the riding (7p per elector for county constituencies and 5p per elector in borough/burgh constituencies).

spending gap is significantly larger, with a third party's spending limit being less than 1% of the budget of major political parties (a ratio of 1:106).

Altogether then, there are some notable differences in third parties' opportunities to participate in elections in Canada versus the UK. Whereas groups and individuals are tightly constrained in the money they can donate to political parties and spend as third parties in Canada, spending in the UK is considerably more open. These differences in spending limits have obvious consequences for what third parties in the two countries *may* do, but the question remains what third parties *actually* do.⁷ By comparing the spending of third parties in Canada and the UK, we can begin the process of unravelling the actions of third parties in these newly regulated environments.

Third Party Expenditures: Analysis

Our data comes from the respective electoral regulatory bodies in each country – Elections Canada and the UK Electoral Commission. Both organisations provide the names of registered third parties and their election expenses going back to the 2000 federal election in Canada and the 2001 general election in the UK. For the purpose of this study, we compare data from the 2004, 2006, and 2008 Canadian federal elections with the 2005 and 2010 general elections in the UK.⁸ All reports were obtained online and are available to the public.

⁷ Ideally, an evaluation of how policy has impacted each case would involve assessing third party spending both before and after policy was implemented; however, lacking empirical data (spending reports are not available from Canada before 2000 or before 2001 in the UK), a pre/post test is not possible.

⁸ Because of an ongoing court challenge, third party spending limits were only in place for a portion of the 2000 federal election in Canada. Similarly in the UK, third party legislation was brought in during the 2001 campaign period. Consequently, these elections are not included in our analysis.

Similar to Couture Gagnon and Palda (2011), we have divided third parties into four types: individuals, businesses, unions, and interest groups.⁹ Because third parties are not required to declare their actual affiliation or class of third party in Canada or the UK, we have classified them according to how they presented themselves in the expenditure report or, where applicable, on their website. Additionally, while they are legally entitled to participate in elections as third parties, we note that banks and other levels of government did not engage in third party spending in any of the elections reviewed here.

A note on the potential for differences in the motivations of political actors should be made. To fully understand the actions of third parties – that is, to understand why they do what they do – requires the consideration of what motivates actors to contribute financially to elections. This question of motives has been explored most extensively in the United States, where scholars have debated whether actors donate as a form of political participation or with the expectation of receiving a political benefit (Ansolabehere et al. 2003; Morton and Cameron 1992). Further, there is the question of whether the private money brought into the electoral arena is being actively *pushed* into campaigns by the private actors themselves or *pulled* in by politicians (Boatright 2011).

While the objective of this paper is not to theorize about the motivations of third party contributors, it is useful to set out a few basic expectations concerning the actions of the third parties analysed here. First, we expect that individuals, in general, will be less likely than groups to have the capacity to make large expenditures. Among the types of groups examined here, businesses and unions have typically had the largest impact on elections by way of party contributions (Boatright 2009), so we may expect that this trend will carry over

⁹ Couture Gagnon and Palda (2011) use a five-fold classification: student unions, labour unions, industry associations, individuals, and groups that espoused a cause not otherwise embodied by the preceding classifications.

to third party expenditures, particularly if they are limited in party contributions (as in Canada) or want to appear at arms-length from partisan politics. Second, because of the considerable differences in third party spending limits between the two countries, we anticipate that British third parties spend in larger quantities both on average and overall.

United Kingdom

Table 2 shows UK third party contributions categorized by type of third party. In the 2005 national election, 26 third parties registered with the Commission, 24 of which reported expenditures.¹⁰ Third party spending amounted to approximately £1.7 million – of which, £1.5 million (89% of total spending) was reported in England. Third parties spent a total of £143,000 in Scotland; £41,000 in Wales; and £3,000 in Northern Ireland (though British parties do not field candidates in Northern Ireland). However, no third party, regardless of category of contributor, came close to spending up to the limit.

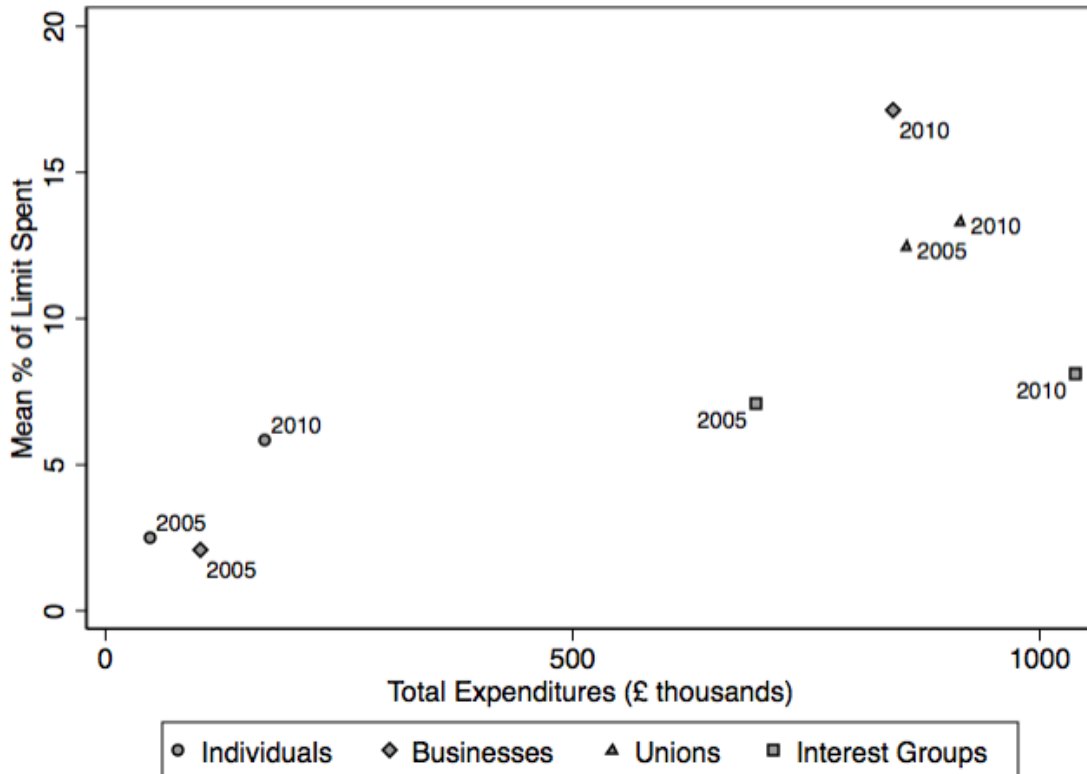
[Table 2 approximately here]

The breakdown for the 2005 election, by class of contributor includes two individuals spending a total of approximately £48,000, 5 businesses spending £102,000, 10 interest groups with expenditures totalling £696,000, and 7 unions spending close to £860,000 (see Table 2). The 2010 national election saw very slight increases across the board in the number of third parties. Again, the majority of third party expenditures were focused in England (91%) (The Electoral Commission 2011). The 2010 campaign saw third party

¹⁰ In the 2001 British national election, only 10 third parties registered with the Commission (only 9 reported spending). The low number of registered third parties was likely owing to the implementation of PPERA midway through the campaign period (February 16, 2001), and the accompanying confusion or unfamiliarity around the new regulatory regime. As Russell et al. (2008) note, these changes may have prompted chronic underreporting.

contributions from three individuals. The number of business-class third parties remained the same (5), as did the number of union contributors (7). Finally, an additional 3 third party interest groups contributed, raising the number to 13.

Figure 1. Average Total Expenditures by Class of Third Party Contributor (UK)

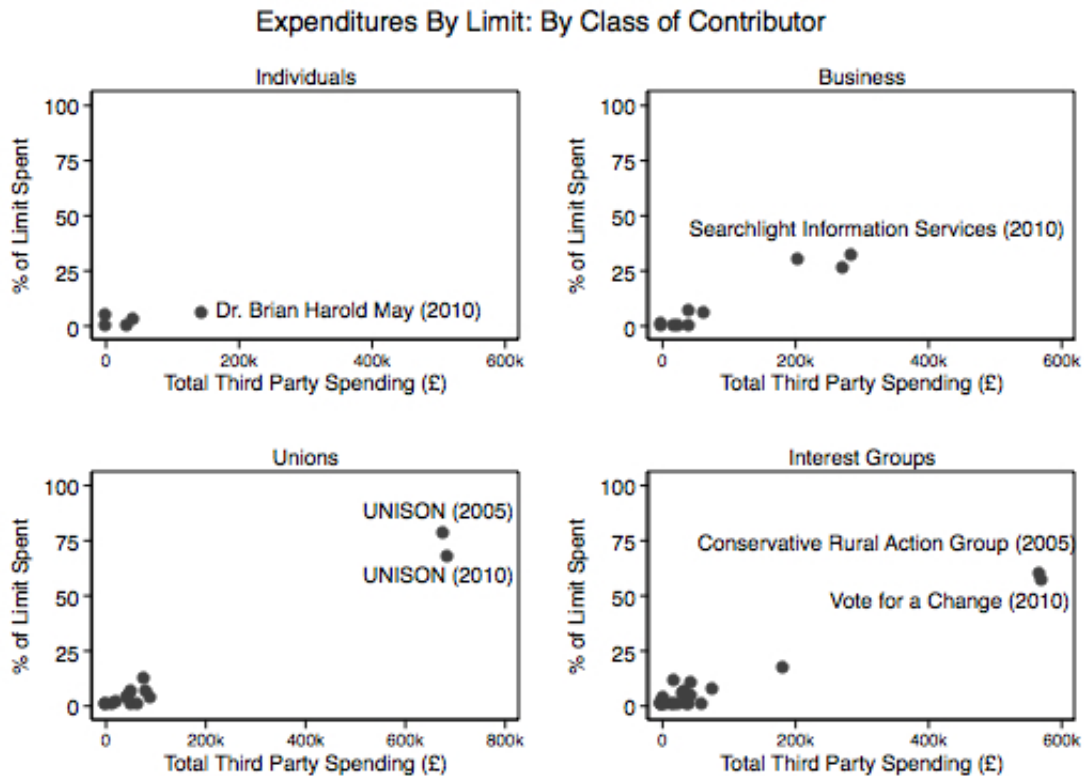


Two trends bear mentioning here: first, there is a slight increase in the number of contributors from 2005 to 2010, however, by no means do registered third parties come close in numbers to party contributors. In 2005, for example, 1547 individuals donated to the three main parties (Labour, Conservative and Liberal-Democratic); this was in addition to 709 contributions from businesses (corporations and joint partnerships), 1002 from unions and 506 from unincorporated associations. In terms of volume of money spent by the three main parties, Labour, the Conservatives, and the Lib-Dems jointly spent

approximately £40m in campaign expenditures in 2005, while in 2010, they spent approximately £30m (The Electoral Commission 2011: 11). The second trend complements the first: while the number of third party participants increased only incrementally, the amount of spending increased drastically, while party contributions fell in total value. Clearly, ten years on from the implementation of PPERA, third parties had become more comfortable spending larger amounts, increasing total spending from £1.7 to £2.97 million in a five year period. Although third party expenditures still only represented approximately 10% of total party expenditures (up from approximately 4.5% in 2005), it is a non-negligible increase from the previous election.

Figure 1 illustrates these increases in third party spending by class of contributor. Business contributors, for example, who spent only £102,468 in 2005 (approximately 3% of what they could have spent together in total), spent almost £850,000 in 2010 (21% of what they could have spent together). Individuals spent £48,000 in 2005; this more than tripled by 2010. While these are still small numbers relative to other classes of expenditure, individuals also increased in terms of their average percentage of limit spent. Unions made a small but noticeable increase in spending between 2005 and 2010 (both in real numbers and percentage of limit spent). Interest groups increased their expenditures from 2005 to 2010, spending just over £1 million GBP in 2010, compared with less than £696,485 in 2005.

Figure 2. Individual Third Party Expenditures by Percentage of Limit Spent (UK)



However, minimum and maximum values (as shown in Table 2) indicate that not all British third parties are spending in large amounts. Indeed, there is a considerable amount of variation in spending across third parties: some third parties spent only a few hundred GBP during these elections, leaving the largest volume of money in the hands of only a few contributors. In fact, the five largest third parties spenders accounted for 82% of third party funding in the 2005 election and 70% in the 2010 election (Bowers et al. 2013: 21).

Individuals – the few that registered as third parties – spent no more than 25% of the limit in either election. Nevertheless, we see some variation in individual spending, ranging from a meagre £405 to £48,000 in 2005 (note that standard deviations can be substantial

indicating variance around the mean; available for all figures available in Table 2).¹¹ Figure 2 highlights these large expenditures by contributor.

Spending by interest groups ranged from almost £225 to £550,000 in 2005, with the range remaining roughly the same in 2010. Two groups, the Conservative Rural Action Group and Vote for a Change, spent a notable amount (£550,370 or 55% of the limit in the 2005 election and £583,469 or 59% of the limit in 2010). The remainder of interest group spending was on average below £100,000. Some businesses, however, were able to come closer to maximizing their third party expenditures. Again, the range of expenditures is notable: in 2005 businesses spent as little as £8400 and as much as £42,000. In 2010, this increased drastically from a minimum expenditure of £7685 to as much as £319,231. Even so, businesses still do not appear to be spending what could be considered large sums given the expenditure limits.

Historically, unions have been big spenders in British elections. From 2001 to 2009, for example, 48 trade unions donated £78.2 million to the Labour Party, which amounted to 63% of the party's reported donations, and about 30% of donations to all parties in that period (Ewing 2012: 63). However, in terms of third party activity, unions were comparatively quiet in the elections considered here. Only 7 unions contributed in either election, and while their numbers were largely stable across the two campaigns, they did not wildly outspend other types of third parties. Their spending also ranged considerably with as little as £656 spent in 2005 to a maximum of £682,000 (the range is largely the same in 2010). The largest contributor among unions was UNISON that spent 69% and 67% of the limit in the 2005 and 2010 elections respectively (see Figure 2). No other union spent even up to 25% of the limit.

¹¹ Note that some third parties reported expenditures that were less than the £10,000 threshold required for registering.

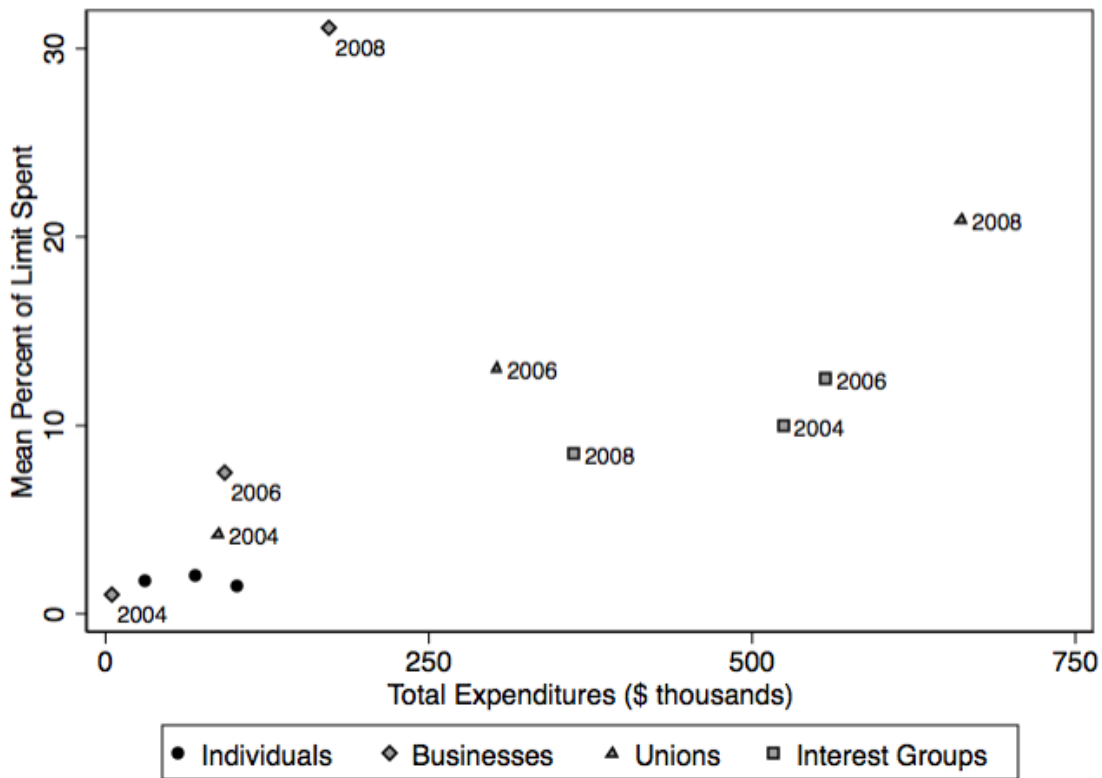
Canada

The Canadian data tell a comparable story. While drastic changes to election regulations between the 2004 and 2008 elections created the possibility that third party advertising would become a source of greater interest for non-party actors (particularly given that businesses and unions were prohibited from making political donations by 2008), spending increased only marginally. Figure 3 shows the total expenditures by class of third party contributor. Generally speaking, two trends are evident: first, individuals as a class of contributor are consistently low spenders. Second, in the remaining three classes of contributors, spending increases across the three elections (both in real terms and in terms of proportion of the limit).

Whereas the British elections in 2005 returned the Labour Party to power, the 2004 Canadian election saw the long-governing Liberal Party drop to minority government status, and the 2006 election resulted in the party losing power altogether. In the face of this electoral volatility, might third parties have been significant players? Table 3 shows that a total of 47 third parties contributed to the 2004 federal election, spending \$721,000.¹² Interest groups (22 in total) were the largest spenders by far, contributing a total of \$577,000 to election advertising. Unions trailed far behind, spending only \$87,000. Fifteen individuals contributed to the 2004 election as third parties, spending a total of just over \$50,000, while businesses contributed less than \$6000, again reinforcing the idea that Canadian corporate bodies appear to have little interest in election spending through third party channels.

¹² Note that these figures exclude contributors who filed reports but spent nothing (see Data Reporting section for further information).

Figure 3. Average Total Expenditures by Class of Third Party Contributor (Canada)



[Table 3 approximately here]

Despite a legislative change in the intervening period, we see little evidence of increased third party spending in the 2006 election. Overall numbers of contributors rose, but only slightly for businesses and unions. As a category, individuals showed the largest amount of growth, going from 15 third party contributors in 2004 to 27 in 2006. The amount contributed rose from \$50,831 to \$80,302. Business spending also increased from \$5000 to \$93,000. Union spending more than tripled from approximately \$87,000 to \$305,000 signalling that unions adapted to the party donation limits imposed by Bill C-24.

The 2008 election differed considerably. The number of contributors actually fell in two categories (individuals and businesses), and increased slightly (from 10 to 15) among unions. The number of interest group contributions remained the same at 22. In terms of volume, individual contributions fell to \$58,879, as did contributions from interest groups

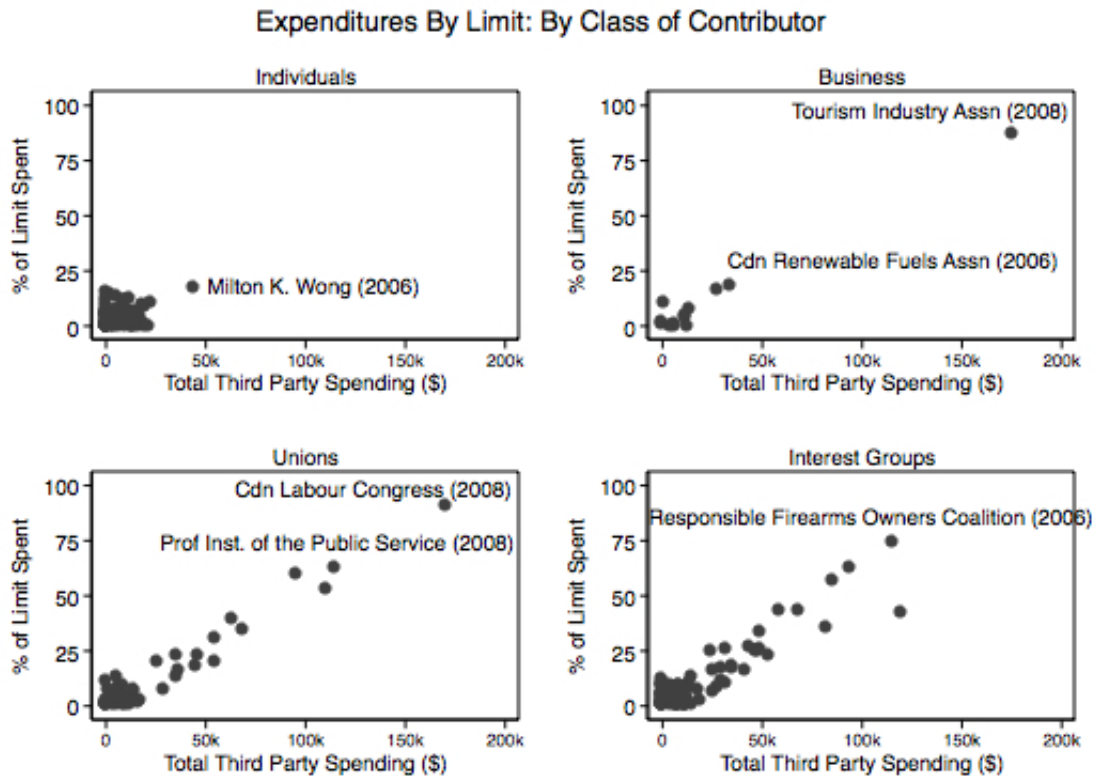
(\$362,000). On the other hand, businesses (though only 3) and unions increased their contributions to \$174,000 and \$664,795, respectively.

These aggregate numbers for the Canadian elections do point to a number of interesting implications. First, the 2006 Federal Accountability Act that eliminated business and union expenditures from regular campaign spending channels coincided with an increase in their third party expenditures in the subsequent 2008 federal election. This does point toward some strategic activity on the part of these actors. However, it is important to keep these numbers in perspective. Canada has approximately 778 unions (covering 30.2% of paid workers), but only 15 were registered third parties for the 2008 federal election.¹³

What can we learn about third party contributions by looking more closely at the individuals or groups who made large expenditures during campaigns? Figure 4 shows the Canadian data as categorized by type of third party. First, very few individuals spent even one-quarter of their allotted expenditure allowance. Even the individual who spent the highest proportion of the allowance spent less than 25% of the limit. Business contributors in Canada took greater advantage of the limits; however, unions tended to be more aggressive spenders. The Canadian Labour Congress came very close to spending to the limit in 2008, while the Professional Institute of the Public Service (2008) and CAW (2006) spent to approximately 60% of the limit. Similarly, interest groups showed more enthusiasm for third party expenditures with the Responsible Firearms Owners Coalition spending 70% of the limit in 2006.

¹³ Number of unions obtained from Human Resources and Skills Development Canada. Correct as of 2011.
http://www.hrsdc.gc.ca/eng/labour/labour_relations/info_analysis/union_membership/2011/unionmembership2011.shtml

Figure 4. Individual Third Party Expenditures by Percentage of Limit Spent (Canada)



Identifying Third Parties: Repeat Contributors

Another useful avenue for understanding the activities of third parties in Canada and the UK is to analyse repeat players. Table 4a lists all Canadian third parties that registered in more than one of the three elections. Twelve third parties registered in the 2004 and 2006 elections. An additional 5 third parties registered in both the 2006 and 2008 elections. Meanwhile, two third parties registered in 2004 and 2008. Apart from these repeat spenders, 8 additional third parties registered in all three elections. Of these third parties, none qualify as particularly large spenders. The Canadian Auto Workers spent 60% of the limit in 2006, and the Council of Canadians spent 38% in 2004. All other repeat spenders spent under 20% of the limit in each election.

The situation in the UK is not remarkably different, though the sparser representation of third parties necessarily means a smaller numbers of repeat spenders (see Table 4b). Out of a total of 52 registered third party expenditures in the 2005 and 2010 elections, only 8 third parties contributed in both. Of these repeat spenders, three were unions, two were business, two were interest groups, and one was an individual. We must be careful not to draw conclusions that repeat spenders are necessarily large spenders. Of these third parties, only two, UNISON and Searchlight Information Services Ltd. could be considered large spenders, having spent £671,866 and £319,231 respectively. The remaining repeat spenders each spent less than £65,000.

[Table 4a and 4b approximately here]

With the exception of a few cases, third party spending does not appear to be especially systematic. The repeat spenders are not necessarily the big spenders, nor are they necessarily what one would classify as a powerful lobby. Additionally, save in just a few cases (including UNISON's contribution history in the UK, and to a lesser extent, CAW in Canada), the third parties who spent the most money are not necessarily those who may have been motivated to do so given legislative changes (in Canada) or those who were using the third party avenue as a way to distance themselves from spending directly on parties.

Regulation Enforcement: Challenges and Circumvention

In both the Canadian and British cases, regulations around reporting have only been in place since 2000. In that time, there have been few known regulatory infractions. In Canada, only one interest group has been pursued for failing to register. However, as reported by Couture Gagnon and Palda (2011: 368), while no charges have been laid on third parties for failing to report election expenses, 34 complaints from the 2004 election alone

were related to third parties. Similarly, there has been little evidence of infractions in the UK. However, following the 2005 national election, the Electoral Commission pursued one possible infraction by a group that allegedly issued election material in excess of the registration threshold.

These infractions aside, the Canadian system appears to be at greater risk for problems with reporting because of the paper-based filing system followed by Elections Canada. The paper reports filed by each third party demonstrate inconsistencies and ambiguities in reporting, largely around how to itemize expenditures and what qualifies as an expenditure. More problematic, however, appear to be inconsistencies in whether a third party registers and reports spending at all. In the 2004 election, 4 third parties failed to submit their reports after registering as third parties with Elections Canada. Similarly, there were 7 failures to report in 2006, and 3 in 2008. On the opposite side of this problem, though the threshold for required reporting is formally stated, a total of 23 third parties filed reports in the 2004 and 2008 elections, but reported no expenditures. For example, Pride Renfrew, a third party interest group in the 2004 election only reported a single expense of 49 cents – a single postage stamp. Twelve additional third parties spent less than the \$500 threshold across the 2004, 2006 and 2008 election, but nevertheless submitted reports.

Comparative Analysis

Differences between the two countries' policies offered the potential for there to be significant differences in the money spent by third parties. Interestingly, however, their spending patterns may be more similar than initially anticipated. In terms of absolute number of participants, Canada's third parties outpaced the UK. However, before concluding that Canada has a more diverse range of players active during its elections, the country's lower

threshold for mandatory reporting (\$500 vs. £10,000) almost certainly meant that some active third parties in the UK went unreported.

Yet despite the differences in the number of spenders, we see similarities in the types of third parties active in each country. First, as they compare to party expenditures, third parties in both countries are not spending anywhere near the levels of the mainstream political parties. Table 5 presents data on party expenditures in real numbers and as a percentage of their spending limit. In Canada and the UK, parties maximize their expenditures, with the main vote-getting parties spending over 80% of their limit in the elections reviewed here. Only in situations where parties struggled to fund their coffers (as was the case with the Liberals in 2008 and Labour in 2010), do we see anything but maximal spending. Second, in both countries interest groups are the most frequent spenders. This makes sense given that groups can form specifically for the purpose of an election. Third, both countries show evidence of only a few financially aggressive third parties seeking to outspend one another in any category. Both countries have reasonably active labour movements, yet neither country's records show that unions, as third parties, are far outspending businesses or interest groups. Altogether, it appears that third parties in both countries are not exercising their full spending power through this channel.

[Table 5 approximately here]

It is also worth considering why these different electoral landscapes may nonetheless be presenting a similar picture. First, differences in how the two countries regulate third party spending in the lead up to Election Day should be noted. Recall that while spending limits in the UK apply to the 365 days leading up to an election, in Canada, the regulated period only begins when the writ is dropped, on average 30 to 40 days before Election Day. With the introduction of fixed election dates in 2006, it has become more practical for

Canadian third parties to anticipate the beginning of the regulated election period.¹⁴ There exists, then, an incentive for Canadian third parties to advertise in the lead up to an election in order to circumvent third party spending limits. In their study of the Canadian Labour Congress, Jansen and Young (2009) describe how the union ran advertisements in the lead up to the 2004 election in order to avoid third party spending provisions. With a regulated period of 365 days, this type of spending is unlikely in the UK. Thus, there remains the possibility that some third party spending is not being captured by current regulations in Canada.

Differences in the federal structure of the two countries may also impact on third party spending. While the UK does have devolved parliamentary units that hold separate elections, it remains a unitary state where major political power rest with the UK government. By contrast, Canada is a highly decentralized federation with provinces that hold jurisdiction over major policy fields, such as education and healthcare. Some Canadian third parties, then, may have more at stake at the provincial level and will be more likely to focus their resources on provincial, rather than federal campaign advertising. While comprehensive analysis of provincial third party spending has not been undertaken to date, it does appear that third parties are major spenders in at least some provinces. In British Columbia (BC), for example, the BC Teachers' Federation spent \$874,964 on election advertising during the 2005 election campaign, a sum equivalent to nearly one-quarter of the permissible spending limit of the main political parties (Smith and Baier 2012). The high spending amongst third parties during this election led the BC government to introduce third party spending limits soon after.

¹⁴ That said, since fixed election date legislation was passed the two proceeding federal elections have not been held on the assigned dates. The ability for third parties to actually plan pre-writ advertising, then, may be reasonably questioned.

Taken together, future research would do well to look at the question of why third parties in both countries appear to participate in such small numbers and spend so little. For the Canadian case, some tentative explanations have started to emerge. Using survey data to explore public interest groups' interactions with Canadian government, Paul Pross (2013) finds evidence that election regulations are not discouraging groups from advertising during elections, but it is rather factors such as financial constraints, regulations governing charities, the social attitudes of members, and a fear of looking partisan. By contrast, in a study looking at whether election-reporting requirements act as barriers to entry for third parties, Couture Gagnon and Palda (2011) find that while the cost of reporting is relatively low (no more than 9% of group budgets) and not viewed as a financial burden by most third parties surveyed, a majority nonetheless believed reporting requirements discourage groups from participating in elections. The authors suggest that intangible costs, such as fear that authorities will prosecute them for alleged violations of reporting requirements, may be causing a chilling effect on political participation.

Both Pross (2013) and Couture Gagnon and Palda (2011) provide insights into why Canadian third parties may be participating in small numbers, however, the question of why groups, on average, spend so little remains. First, it should be acknowledged that using aggregate spending data, like has been done here, always runs the risk of presenting a somewhat incomplete story. Third parties vary in the resources they have to spend – for example, our union category includes both local and national organisations – and many are likely incapable of spending to the regulated limits even if it was their preference to do so. Nonetheless, our analysis reveals that in both Canada and the UK most third parties spend little during elections. This finding is especially interesting in the Canadian case, where unions and corporations are no longer allowed to donate to political parties.

In response to this puzzle, Lawlor and Crandall (2011) have questioned whether third party spending limits are so low in Canada that potential participants opt out because an effective advertising campaign is not considered feasible. For example, the current cost of a quarter-page advertisement in the Toronto metro section of the *Globe and Mail* is approximately \$7000, almost twice the amount that third parties are permitted to spend in a riding. Single ad rates are lower for smaller regional papers, ranging from \$300 to \$700 for a quarter-page ad, but distribution is, of course, limited, and third parties run the risk of limiting their impact if they choose to run the ad only once.

Another possibility worth further consideration is whether there is a relationship between spending levels and electoral competitiveness and/or the major issues at play during the election. While a few studies have looked at the campaigning of third parties in Canada and the UK using a detailed, case study approach (Russell et al. 2008; Tanguay and Kay 1998), it remains unclear whether certain conditions promote or inhibit the participation of third parties in elections in these two countries. It may be that third parties who are spending large volumes of money – as in the case of the Conservative Rural Action Group in the UK (2005) or third parties during Canada’s ‘Free Trade election’ (1988) – are mobilizing around a single, timely issue.

Conclusion: Third Party Spending in a Comparative Context

This paper began with the basic assumption that electoral rules influence the behaviour of political actors and vice versa (Norris 2004: 264). For Canada and the UK, recent reforms to election finance regulations provided a unique opportunity to analyse the effects of reforms on the activities of organized interests. While operating in similar institutional contexts and pursuing similar goals, the considerable differences in spending

limits between the two countries led to the expectation that British third parties would be bigger spenders. In terms of absolute spending, UK third parties clearly outspent their Canadian counterparts. This notwithstanding, none of the four identified types of third parties came anywhere close, on average, to spending to their limits. However, there were clearly groups across cases that were more active both in terms of number of participants and spending. Given their more limited spending capacity, we anticipated that individuals would spend less than other third party groups. In Canada, where the mean and total spending by individuals was significantly smaller than that of the other third party types, this expectation was confirmed. However, the story is different in the UK where a small number of individuals actually spent a fair amount. It was also anticipated that unions and businesses would spend more than interest groups. However, this did not clearly prove the case in either country. Interestingly, Canadian interest groups were some of the most active third parties, both in terms of the number of participants and spending. Similarly, interest groups in the UK were the most active third party category in terms of number of participants and amount of money spent in 2010.

These findings are especially notable for the UK where a key justification for recent changes to third party spending limits was the perception that current regulations may allow moneyed interests to hold excessive sway. This position seems questionable for at least two reasons. First, over the two UK elections reviewed here, only four third parties would have been affected by the new spending limits, raising the question of whether this is, in fact, a solution in search of a problem. In this, the UK appears very similar to Canada where third party regulations have often been seen as a preventative rather than responsive approach to problems with electoral financing (Boatright 2011; Feasby 2010; Lawlor and Crandall 2011). Second, spending limits on third parties must be considered within the context of the larger

electoral finance regime. While UNISON was one of the largest third party spenders in both the 2005 and 2010 elections, total third party spending by unions was dwarfed by their donations to the Labour Party, which during these two elections totalled £14,864,420 and £11,088,169 respectively.

Finally, it is worth considering these findings alongside the goals that these third party regulations sought to achieve. For both Canada and the UK, the regulation of third party spending was informed by a view that parties and candidates should remain the key actors in elections. With relatively little spending by third parties in all the elections examined here, there is little question that this goal has been achieved. Thus, while there is little question that third parties play a limited role in elections in both Canada and the UK, at least in terms of spending, there remains more to learn about the activities of third parties in both these countries.

Table 1. Summary of Third Party Regulation

	Canada	UK
Third Party Finance Legislation	C-203 Election Expenses Act, 1974 C-169 Canada Elections Act, 1983 C-114 Canada Elections Act, 1993 C-2 Canada Elections Act, 2000	Corrupt and Illegal Practices (Prevention) Act, 1883 Representation of the People Act, 1983 Political Parties, Elections and Referendums Act, 2000 Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act, 2014
Commissions	Royal Commission on Electoral Reform and Party Financing (Lortie Commission), 1993	Committee on Standards in Public Life/Neill Committee, 1997 Committee on Standards in Public Life/Kelly Committee, 2011
Third Party Contribution Limits	Per constituency: \$3666 (as of 2008 election) Nationally: \$183,300 (as of 2008 election)	Per constituency: £500 (as of 2010 election) England: £793,500; Scotland: £108,000; Wales: £60,000; Northern Ireland: £27,000 (as of 2010 election)
General Campaign Contribution Regulation	Caps to all categories of donations/disclosure required (EEA, 1974) Business and labour contributions limited to \$1000 in total (C-24, 2003); Business and labour contributions subsequently prohibited (FAA, 2006) Individual contributions limited to \$5000 (C-24, 2003); Individual contributions subsequently limited to \$1,100 and adjusted for inflation (FAA, 2006)	Parties report donations in excess of £5000 and £1000 locally to the Electoral Commission on a quarterly basis (PPERA, 2000) Limited election spending at national level in general elections; ceiling set at £30,000 per contested constituency (PPERA, 2000)
Court Challenges	<i>National Citizens' Coalition Inc. v. Attorney General of Canada</i> (1984), 32 Alta. L.R. (2d) 249 (Q.B.) • Strikes down third party spending ban as set out in C-169 <i>Somerville v. Canada (Attorney General)</i> , [1996] 184 A.R. 241 • Strikes down third party spending limits as set out in C-114 <i>Harper v. Canada (Attorney General)</i> , [2004] 1 S.C.R. 827 • Upholds third party spending limits as set out in C-2	<i>Bowman v United Kingdom</i> (1998) 26 EHRR 1 • Finds third party spending restriction of £5 limit per constituency not justifiable; limit should be proportionate to the spending limits on candidates and political parties

Note: Adapted from Boatright (2009)

Table 2. Number of Third Parties By Election (UK)

		2005	2010
Individuals	N	2	3
	Sum	48,861.99	172,003.60
	Mean	24,430.99	57,334.53
	Min	405.00	6000.00
	Max	48,456.99	151,948.00
	(Std. Dev.)	(33,977.89)	(82,036.60)
Business	N	5	5
	Sum	102,468.00	844,508.00
	Mean	20,493.60	168,901.59
	Min	8400.00	7685.00
	Max	42,761.00	319,231.00
	(Std. Dev.)	(13,746.75)	(151,772.91)
Union	N	7	7
	Sum	857,791.90	915,544.00
	Mean	122,541.70	130,792.00
	Min	656.00	4298.31
	Max	682,115.00	671,866.00
	(Std. Dev.)	(248,014.44)	(242,954.75)
Interest	N	10	13
	Sum	696,485.60	1,038,149.78
	Mean	69,648.56	79,857.67
	Min	225.00	5996.00
	Max	550,370.00	583,469.00
	(Std. Dev.)	(169,350.62)	(157,583.09)
	Total (N)	£1,705,607.49 (24)	£2,970,205.38 (28)

Table 3. Number of Third Parties By Election (Canada)

		2004	2006	2008
Individuals	N	15	27	17
	Sum	50,831.53	89,302.83	58,879.79
	Mean	3388.77	3307.51	3463.52
	Min	247.17	160.50	605.68
	Max	11,508.37	31,096.59	10,229.56
	(Std. Dev.)	(2718.29)	(5904.79)	(2247.01)
Business	N	3	7	3
	Sum	5089.28	93,130.38	174,000.75
	Mean	1696.43	13,304.34	58,000.25
	Min	508.40	561.75	2923.08
	Max	2897.28	42,908.00	167,067.67
	(Std. Dev.)	(1194.49)	(18,261.66)	(94,456.72)
Union	N	7	10	15
	Sum	87,673.81	305,760.35	664,795.20
	Mean	12,524.83	30,576.04	44,319.68
	Min	156.80	145.32	1596.00
	Max	46,337.00	109,793.90	179,936.06
	(Std. Dev.)	(17,595.87)	(34,598.62)	(54,219.56)
Interest	N	22	22	22
	Sum	577,484.28	557,791.44	362,806.81
	Mean	26,249.29	25,354.16	16,491.22
	Min	0.49	255.00	1239.00
	Max	110,661.00	126,787.71	81,389.62
	(Std. Dev.)	(35,551.24)	(32,215.34)	(21,141.83)
	Total (N)	\$721,078.90 (47)	\$1,045,985.00 (66)	\$1,260,482.55 (57)

Table 4a. Repeat Third Parties (Canada)

Third Party	Expenditure Years
B.C. Government and Service Employees' Union	2004, 2008
BC Federation of Labour	2004, 2006, 2008
BCWF Political Action Alliance	2004, 2006
British Columbia Nurses' Union	2004, 2006, 2008
CAW Canada	2004, 2006, 2008
Canada Family Action Coalition	2004, 2006
Canadian Federation of Students	2004, 2006
Canadian Labour Congress	2006, 2008
Canadian Shooting Sports Association	2006, 2008
Canadian Union of Public Employees	2004, 2008
Common Sense Advocacy of Victoria	2006, 2008
CommunityAIR	2004, 2006, 2008
Conservation Voters of BC	2004, 2006
FEUQ (Fédération étudiante universitaire du Québec)	2004, 2006
Foster Farms Ltd.	2004, 2006
International Longshore and Warehouse Union Canada	2006, 2008
Jubilee Centre for Christian Social Action	2004, 2006
Lei Wang	2006, 2008
Les sans-chemise	2004, 2006, 2008
Lubicon Legal Defence Fund	2004, 2006
National Citizens Coalition	2004, 2006, 2008
Sandra Anstey	2004, 2006
The Canadian Alliance for Social Justice and Family Values Association	2004, 2006, 2008
The Council of Canadians	2004, 2006, 2008
The Sporting Clubs of Niagara	2004, 2006
Vote For A Change.ca	2004, 2006
Young Canadians for Positive Change	2004, 2006

Table 4b. Repeat Third Parties (UK)

Third Party	Expenditure Years
Mr Patrick Evershed	2005, 2010
Searchlight Information Services Ltd	2005, 2010
The League Against Cruel Sports	2005, 2010
UNISON - The Public Service Union	2005, 2010
Uncaged Campaigns Ltd	2005, 2010
Union of Shop, Distributive and Allied Workers (USDAW)	2005, 2010
Unite	2005, 2010
Vote-OK	2005, 2010

Table 5. Party Expenditure By Election

	Party	Expenditures	% Limit
Canada (\$)			
2004	Bloc Québécois	4,511,087.12	98.2
	Conservative	17,284,256.91	98.2
	Liberal	16,640,947.00	94.6
	NDP	12,041,249.32	68.4
2006	Bloc Québécois	4,527,629.97	96.8
	Conservative	18,019,179.28	98.6
	Liberal	17,447,130.00	95.4
	NDP	13,524,524.81	74.0
2008	Bloc Québécois	4,876,120.59	96.2
	Conservative	19,418,579.89	97.1
	Liberal	14,531,853.40	72.6
	NDP	16,813,890.73	83.8
UK (£) ^a			
2005	Conservative	17,852,000	94.7
	Labour	17,946,000	95.2
	Lib-Dem	4,325,000	22.9
2010	Conservative	16,683,000	85.5
	Labour	8,016,000	41.1
	Lib-Dem	4,788,000	24.5

^aLimit in 2005: £18,840,000; limit in 2010: £19,500,000 for a party contesting all seats; Canadian limits vary by party.

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