



The Representation-Enabling Approach to Campaign Finance Reform

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There is broad disagreement about campaign finance reform, in part, because there is disagreement about the goals that should guide it. The most common approaches focus on the importance of preventing corruption or promoting equal opportunity for political influence. Unfortunately, such accounts tend not to be rooted in a deeper account of democratic theory that can effectively explain, and situate, these goals. This paper sketches an account of representative democracy's appeal that can explain the importance of reducing corruption and promoting equal opportunity for political influence. Importantly, however, this explanation also implies the importance of broader considerations related to the effective functioning of the system of representation that are oftentimes ignored in debate about campaign finance (e.g., facilitating effective accountability, electoral selection, and voter competence). At least from the perspective of democratic theory, these additional goals – and not just worries about corruption or equal opportunity for political influence – should shape our evaluation of systems of campaign finance. The paper, then, develops a comprehensive framework for evaluating systems of campaign finance by connecting such evaluation to the underlying reasons that might lead one to accept representative democracy.

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I. INTRODUCTION

According to the U.S. Supreme Court's foundational decision on campaign finance, *Buckley v. Valeo*, the only acceptable justifications for restrictions on campaign contributions are preventing corruption and preventing the appearance of corruption.¹ *Buckley* focused primarily on quid pro quo ("something for something") corruption, which the Court understood to require an explicit pre-arranged agreement. When Massachusetts Senator Daniel Webster wrote to the president of the Second Bank of the United States in 1833 and explained that if the bank wished to continue to receive his political support, "it may be well to send me the usual retainer," he engaged in quid pro quo corruption.²

While this is a narrow understanding of corruption, two comments in the decision suggested a broader possibility. First, the Court insisted that criminal bribery laws are insufficient because they "deal with only the most blatant and specific attempts of those with money to influence governmental action."³ This concern with patterns of corruption that go beyond "blatant and specific attempts" to purchase legislative favors suggests that we need to understand corruption to include influence that does not fit the quid pro quo pattern. Second, the Court sometimes stressed the importance of addressing "undue influence."⁴ There are, however, many ways that donors may gain such influence that do not involve quid pro quo corruption (several are discussed below). Thus, while *Buckley* was clear that restrictions on campaign related contributions needed to be justified by reference to concerns about corruption, what counts as corruption was left at least somewhat ambiguous.

There is no such ambiguity in the Court's more recent decisions. Indeed, in *McCutcheon v. FEC* the Court was explicit that "any regulation must ... target what we

¹ *Buckley v. Valeo*, 424 U.S. 1, 26–7 (1976).

² Robert G. Kaiser, *So Damn Much Money: The Triumph of Lobbying and the Corrosion of American Government* (New York: Vintage Books, 2010), 82.

³ *Buckley*, 424 U.S. 1, 27–28 (1976).

⁴ *Ibid.*, 53.

have called *quid pro quo* corruption or its appearance” and explained that that phrase “captures the notion of a direct exchange of an official act for money.”⁵ Furthermore, it explicitly prohibited regulation from targeting “the general gratitude a candidate may feel toward those who support him or his allies, or the political access such support may afford.”⁶ Thus, the Court now holds that only *quid pro quo* corruption is a legitimate target of restrictions on campaign-related contributions.

This focus on *quid pro quo* corruption fundamentally shapes the American system of campaign finance. For instance, while limits on contributions may be understood as a defense against *quid pro quo* corruption insofar as they make it less likely that contributions will be sufficiently valuable to elicit special favors, independent expenditures are, by definition, uncoordinated with candidates and so cannot be part of a *quid pro quo* exchange.⁷ Since Super PACs operate through putatively independent expenditures and therefore largely escape regulation, their importance is the direct result of the Court’s favored understanding of corruption. The prominence of wealthy candidates funding their own campaigns is also partially an artifact of the Court’s preoccupation with *quid pro quo* corruption. Since one cannot bribe oneself, wealthy candidates are free to spend their own resources as they see fit, giving them an important advantage over less wealthy citizens who would like to run. Thus, the peculiar shape of the existing system—which combines extensive limits on contributions with very little regulation of independent spending—is the consequence of requiring that restrictions target *quid pro quo* corruption.

In arguing for the position that worries about *quid pro quo* corruption justify restrictions on campaign contributions, the Court reasoned that if “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.*”⁸ Unfortunately, it failed to specify precisely *how* or *why* we should think that such corruption undermines the integrity of representative democracy. This is important because the most appealing way to explain the threat posed to representative democracy by *quid pro quo* corruption implies that restricting one’s concerns to such corruption is unjustified. While this claim is not itself novel, the paper offers a distinctive and systematic defense of it—one whose implications importantly differ from extant accounts.

⁵ *McCutcheon v. FEC*, 572 U.S. 185, 192 (2014); also see *Citizens United v. FEC*, 558 U.S. 310 (2010).

⁶ *Ibid.*, 192.

⁷ Although it may be naïve to believe that much independent spending is not effectively coordinated with candidates, I leave aside issues of enforcement.

⁸ *Buckley*, 424 U.S. 1, 26–27 (1976), emphasis added.

The paper proceeds as follows. It begins by describing a way of thinking about representative democracy's appeal (Section II). Next, the paper explains why—from the perspective of that account—quid pro quo corruption is problematic (Section III). The problems underlying quid pro quo corruption are not unique, however, but instead extend to other patterns of behavior that are common in representative democracies—perhaps much more common than quid pro quo corruption. While broader accounts of corruption have been proposed to capture some such problems, the paper argues that these broader accounts are not successful in capturing the full range of considerations that are at stake in preventing money from undermining representative democracy's appeal (Sections IV–V). Many have thought that the limitations of corruption-based approaches suggest the superiority of alternatives oriented around a commitment to equal opportunity for political influence. This paper argues, however, that such approaches face similar problems to their corruption-based alternatives (Section VI). It argues that only an approach that is rooted in a broader account of the value of representative democracy—what I will call a *representation-enabling* account—can systematically bring into view the full range of relevant concerns (Section VII).

Before proceeding, I enter one note about the paper's scope. While much of the normative literature in this area seeks to advance a particular reform proposal,⁹ my goals are more modest. I hope to provide a framework that can help us to (a) evaluate systems of campaign finance and (b) think more productively about reforms. I am not a policy expert, and the long history of attempts at campaign finance reform reveals that this is a policy domain that is particularly ripe for unanticipated consequences.¹⁰ However, as Dennis Thompson instructively puts it, even if democratic theory is unlikely to provide detailed legislative solutions to problems of campaign finance, it can nevertheless help “identify the issues that should be subject to deliberation, clarify the moral values at stake... and establish some common ground for... more fruitful controversy.”¹¹ It is in

⁹ See e.g., Bruce Ackerman, “Crediting the Voters: A New Beginning for Campaign Finance,” *American Prospect* 13, no. 4 (1993): 71–89; Richard L. Hasen *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections* (New Haven: Yale University Press, 2016); Lawrence Lessig, *Republic Lost: The Corruption of Equality and the Steps to End It* (New York: Twelve Books, 2011).

¹⁰ For discussion, see Samuel Issacharoff and Pamela S. Karlan, “Hydraulics of Campaign Finance Reform,” *Texas Law Review* 77 no. 7 (1999): 1705–38; Ryan Pevnick “The Anatomy of Debate about Campaign Finance,” *The Journal of Politics* 78, no. 4 (2016): 1184–95, <http://dx.doi.org/10.1086/686687>.

¹¹ Dennis F. Thompson *Just Elections: Creating a Fair Electoral Process in the United States* (Chicago: University of Chicago Press, 2002), 17; similarly, see Joshua Cohen *Philosophy, Politics, Democracy* (Cambridge, Ma.: Harvard University Press, 2009), <https://doi.org/10.4159/9780674271579>; Robert Post, “Representative Democracy: The Constitutional Theory of Campaign Finance Reform,” *The Tanner Lectures on Human Values*, May 1 – 3, 2013, 200, <https://tannerlectures.org/lectures/representative-democracy-the-constitutional-theory-of-campaign-finance-reform/>.

these senses, and not as an argument for a specific policy agenda, that the present piece is meant to contribute to debate about campaign finance reform.

II. THE REPRESENTATION-ENABLING APPROACH

Without a baseline account of what could render representative democracy appealing, it is not clear what it means to say that its integrity is “undermined” by money. Accordingly, in this section, I (a) sketch a way of thinking about representative democracy’s appeal that can provide such a baseline and (b) explain this perspective’s implications for evaluating systems of campaign finance. The rest of the paper tries to show that the resulting position provides a better basis for thinking about campaign finance reform than the dominant approaches in the literature, which focus either on eradicating corruption (properly understood) or facilitating equal opportunity for political influence.

One way to illuminate representative democracy’s appeal is to ask: why might a group of individuals who regard one another as equals choose to govern themselves via representative democracy? Given a commitment to equality, an obvious alternative would be for each citizen to claim a right to equal political power and, so, insist on direct democracy.¹² This is surely a salient possibility for a community of equals, deviations from which require justification. Importantly for our purposes, the reasons for departing from such a distribution help illuminate representative democracy’s appeal and are, as a result, instructive for thinking about the appropriate goals of campaign finance reform.¹³ Or, so I shall argue.

By their very nature, representative democracies give far more formal political power to some individuals than to others. Elected officials make legislation, while ordinary citizens do not. Unless mechanisms are in place that can force elected officials to act precisely as their constituents prefer (i.e., eliminate their decision-making discretion), representative democracy will not provide citizens with equal political power. Some

¹² My claim is not that a direct democracy would, in fact, operate in a manner consistent with equal political power, but just that—insofar as one is motivated by equal political power—its unwillingness to give different citizens different levels of formal power seems like an advantage.

¹³ For reasons that will become clear momentarily, I do not think that equal political power is ultimately an attractive requirement for a large political community. For a classic and still important criticism of equal political power, see Ronald Dworkin, *Sovereign Virtue* (Cambridge: Harvard University Press, 2000), ch. 4, <https://doi.org/10.2307/j.ctv1c3pdor>; more recently, see e.g., Daniel Viehoff, “Power and Equality,” in *Oxford Studies in Political Philosophy*, vol. 5, eds. David Sobel, Peter Vallentyne, Steven Wall (Oxford: Oxford University Press, 2019): 1–38, <https://doi.org/10.1093/oso/9780198841425.003.0001>; James Wilson, *Democratic Equality* (Princeton: Princeton University Press, 2019), <https://doi.org/10.2307/j.ctvdfokn3>.

therefore emphasize the importance of ordinary citizens having such control and thereby eliminating representatives' discretionary power.¹⁴ Yet, for a variety of reasons, it seems doubtful that this can succeed. One reason is that elections are an inevitably coarse tool of accountability. There will not, for instance, be a candidate running on every conceivable platform, and this will create some leeway for officials to act as they like on certain issues, especially those that are less salient. This leeway is exacerbated by the (rational) informational asymmetry between voters and officials. Additionally, the ability of representatives to construct different majority coalitions for reelection gives them a form of power that their constituents lack. If, as such considerations suggest, representatives' discretion cannot be eliminated, then representative democracies *cannot* distribute political power equally.¹⁵

In light of this, one way to explain representative democracy's potential appeal, would instead involve identifying mechanisms that could explain how the inequalities around which such systems are built could be expected to benefit all. I focus on two primary reasons that citizens might prefer representative democracy's system of delegation to a system built around an equal division of political power. Both reasons revolve around a competence-related problem that faces systems, like direct forms of democracy, that attempt to distribute political power equally.

These problems arise because, in a modern society, political decision-making requires extensive knowledge across a wide range of policy areas.

The Accountability Problem: In a system that gave all citizens equal formal power, each would be extraordinarily unlikely to be pivotal. As such, citizens would have little reason to invest in the expertise needed to make good policy decisions. In short, such systems lack a mechanism that would effectively induce citizens to use their political power in ways that are informed or directed toward the broader good.

The Selection Problem: We cannot assume that all citizens have the requisite knowledge, nor that they are interested in bearing the costs associated with acquiring it.

¹⁴ For views along these lines, see e.g., Thomas Christiano, *The Rule of the Many: Fundamental Issues in Democratic Theory* (New York: Routledge, 1996), 215–219, <https://doi.org/10.4324/9780429495861>; Niko Kolodny, *The Pecking Order* (Cambridge: Harvard University Press, 2023), 335, <https://doi.org/10.4159/9780674292819>.

¹⁵ For fuller arguments about the impossibility of eliminating such discretion, see Joseph Heath, *The Machinery of Government: Public Administration and the Liberal State* (Oxford: Oxford University Press, 2020), 59–65, <https://doi.org/10.1093/oso/9780197509616.001.0001>; Dimitri Landa and Ryan Pevnick, *Representative Democracy: A Justification* (Oxford: Oxford University Press, 2025), 63–65, <https://doi.org/10.1093/oso/9780198897538.001.0001>.

The Selection Problem, then, is that direct democracy would be unable to select citizens who were particularly well-suited to undertake the tasks of government in a responsible fashion.

As noted above, both of these problems relate to the expected competence of decision-makers in a direct democracy—the former to the incentives that they have to develop and utilize relevant competence and the latter to the capacity of the system to empower those who already possess such competence.

Representative democracy's delegation of special formal power to a relatively small number of officials can be understood as a response to these problems.

Response to the Accountability Problem: Since representatives' votes are more likely to be pivotal, officials have a greater incentive to make decisions in a careful and informed manner than would citizens in a direct democracy. By itself, this increased pivotality can be dangerous—decision-makers may use their power to carefully advance their *own* interests, even at the expense of their fellow citizens (pivotality is, after all, taken to its extreme in dictatorships). The important feature of representative democracy is that it combines this relatively high pivotality with accountability. Under well-designed versions of representative democracy, elected officials have reason to make decisions in an informed and careful manner (due to their pivotality) *and* in a way that they anticipate their constituents approving of at election time (due to their accountability).¹⁶ By showing how representative democracy might be able to better incentivize decision-makers than direct democracy, this combination of pivotality and accountability offers a response to the Accountability Problem.¹⁷

Response to the Selection Problem: Given the importance and complexity of public policy decisions, all else equal, everyone would benefit by delegating them to particularly competent citizens. As Madison famously argued in *Federalist 10*, an

¹⁶ Landa and Pevnick, *Representative Democracy*, ch. 7.

¹⁷ Some argue that electoral systems are in principle (i.e., even if well-designed) incapable of generating meaningful accountability, primarily because of informational asymmetries between voters and elected officials (see e.g., Jason Brennan, *Against Democracy* (Princeton: Princeton University Press, 2016), <https://doi.org/10.2307/j.ctvc77mcz>; Alexander A. Guerrero, *Lottocracy* (Oxford: Oxford University Press, 2024), ch. 2, <https://doi.org/10.1093/oso/9780198856368.003.0001>. While I am skeptical, and defend that skepticism at length elsewhere (Sean Ingham, Dimitri Landa, and Ryan Pevnick, "Accountability in Democratic Theory and Social Science," Working Paper, on file with author, 2025), such challenges are orthogonal to the present piece, which simply presents a way of thinking about representative democracy's appeal and explores its implications for campaign finance. I cannot, in other words, attempt to fully vindicate the proffered account of representative democracy's appeal here; for such a defense, see Landa and Pevnick, *Representative Democracy*.

advantage of a well-functioning electoral system would be its ability to delegate the important and challenging tasks of governance to a group of citizens particularly well-equipped to handle them.

Both responses turn on the idea that giving some individuals more power than others could benefit all by leading to better decision-making than one would get in a system that allocated such power equally. This gives citizens an important reason to prefer representative democracy, even knowing that it introduces large inequalities in political power.

Note two important features of these responses.¹⁸ First, the plausibility of the responses to the Accountability and Selection problems is *conditional* on proper institutional design.¹⁹ It is not the case, in other words, that just *any* system of representative democracy will select particularly able representatives or reliably induce them to pursue the interests of their constituents. Indeed, poorly designed systems of campaign finance are among the threats to representative democracy's ability to effectively address these problems. Consider, as an example, a system that effectively requires candidates to raise funds from a small and unrepresentative group of wealthy donors. This fundraising requirement will weaken the system of accountability because candidates will need to place some weight on cultivating donors.²⁰ The system of selection will also be weakened because elections will, in part, select on other criteria (i.e., fund-raising prowess). Thus, the responses claim only that a *well-designed* system of representative democracy can overcome the Accountability and Selection problems.

The second feature of these responses to notice is that the justification that they give for representative democracy's deviation from equal political power is, in a familiar sense, Rawlsian. The idea is that the fundamental inequalities at the heart of representative democracy are justified insofar as they are advantageous

¹⁸ The two responses are independent of one another. One may, therefore, embrace the response to the accountability problem without committing oneself to the response to the selection problem and vice-versa. For the purposes of the present piece, it seems most useful to assume that some version of both of these responses can be defended. But it will be easy to see how one could revise the account if one, but not the other, response seemed compelling.

¹⁹ Institutional design should be understood broadly, to include not just the formal rules of the political system, but also less formal elements that structure political outcomes, including how parties operate and the norms that structure political competition.

²⁰ In the United States, there is evidence that House candidates take positions that are more extreme than those even of the median primary voter, as they attempt to appeal to donors (who are, on average, more extreme in their views) (Jordan Kujala, "Donors, Primary Elections, and Polarization in the United States," *American Journal of Political Science* 64 no. 3 (2019): 587–602, <https://doi.org/10.1111/ajps.12477>).

from the perspective of a representative citizen.²¹ This is because they promise to bring forth a set of decision-makers who will use their power in ways that are more advantageous than would decision-makers in a direct democracy. Insofar as this delegated system of unequal power is indeed advantageous from the perspective of representative citizens, there is no reason to view it as conflicting with a commitment to political equality.²²

On the account just sketched, delegation to representatives is attractive because it provides a way of generating better results than citizens could get through a direct democratic system that aimed to give equal power to all. It does this by empowering a relatively small group of officials in positions with relatively high pivotality and accountability. While this is surely not the only way to conceive of representative democracy's appeal, I take it for granted in the rest of the paper in order to explore its implications for debates about campaign finance.

The account implies that:

1. Representative democracies should incentivize elected officials to take care to act in ways of which they anticipate their constituents approving (Accountability).
2. Representative democracies should facilitate voters' ability to select candidates who are particularly well-suited to accomplish this (Selection).
3. Citizens need a sufficient level of information in order to perform well with respect to accountability and selection (Information).²³
4. Unequal political power that cannot be justified as a way to overcome the problems described above is *prima facie* objectionable (Egalitarian Constraint).²⁴

²¹ In calling it Rawlsian, then, I mean only that the account is consistent with the spirit of Rawls's general conception of justice (i.e., that injustice "is simply inequalities that are not to the benefit of all." John Rawls *A Theory of Justice*, rev. ed. (Cambridge, Ma.: Harvard University Press, 1999), 54, <https://doi.org/10.2307/j.ctvkjb25m>).

²² For accounts of political equality consistent with this broad perspective, see e.g., Charles R. Beitz, *Political Equality* (Princeton: Princeton University Press, 1989), ch. 5, <https://doi.org/10.2307/j.ctv173f2q4>; Viehoff, "Power and Equality"; Wilson, *Democratic Equality*, 95.

²³ The level of knowledge that citizens need to do so is a matter of substantial debate in political science (see, e.g., Arthur Lupia and Mathew D McCubbins, *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* (Cambridge: Cambridge University Press, 1998); Scott Ashworth and Ethan Bueno De Mesquita, "Is Voter Competence Good for Voters?: Information, Rationality, and Democratic Performance," *American Political Science Review* 108, no. 3 (2014): 565–587, <https://doi.org/10.1017/S0003055414000264>). I remain agnostic with respect to this debate here.

²⁴ There may, however, be other reasons – not directly connected to the system of representation – to permit such inequality. For instance, the inequality in question may be the direct result of exercising civil liberties, which is valuable apart from considerations related to democratic government. This is why such unequal power is *prima facie*, and not all-things-considered, objectionable.

These implications fall directly out of the preceding account of representative democracy's appeal. They thereby provide a relatively precise way of thinking about what it would mean for money to "undermine" representative democracy's integrity. In particular, we can ask to what extent systems of campaign finance advance or obstruct the preceding goals. Because this approach is directly rooted in an account that explains the underlying reasons for valuing representative democracy, I call it the *Representation-Enabling* approach.²⁵

The paper's central goal is to show that this approach is preferable to the main extant frameworks for evaluating systems of campaign finance. A signal advantage of the representation-enabling approach is that, by calling attention to the underlying reasons for electoral representation, it is able to draw attention to the broader, pluralistic goals that ought to guide campaign finance reform. By contrast, as we will see, influential existing approaches tend to be too narrow to serve as comprehensive frameworks for evaluating systems of campaign finance.

III. QUID PRO QUO CORRUPTION AND REPRESENTATIVE DEMOCRACY'S APPEAL

From the perspective of the account sketched in the preceding section, quid pro quo corruption is problematic because it undermines the effectiveness of electoral accountability. It does so by introducing competing self-interested considerations of an especially potent kind. Consider, as illustrations, two recent examples:

1. Virginia Governor Bob McDonnell was convicted on bribery charges. He received gifts valued at nearly \$180,000—including cash, extremely favorable loans, stock, vacations, rounds of golf, a borrowed Ferrari, and more—from the CEO of Star Scientific, a dietary supplement company. In exchange, McDonnell allegedly

²⁵ While space constraints prevent me from providing a detailed account of how considerations of free expression fit into this picture, it is notable that the first three implications speak to the importance of political speech and may, like traditional views, vindicate a presumption against restrictions on political speech. However, each also speaks to the importance of the broader quality of public debate, which is unlikely to be optimized just by respecting such a presumption. Thus, it would appear that the representation-enabling account is consistent with approaches that hold that there are important questions of free expression at stake in arguments about campaign finance, but doubt that those questions are adequately handled just via a prohibition on restrictions. For a discussion of free expression in the context of debates about campaign finance that is attentive to the logic of representative democracy, see Post, "Representative Democracy." Post's account turns on the importance of ensuring "electoral integrity," which is understood as requiring "that elections produce representatives who are responsive to public opinion" (Post, "Representative Democracy," 282). There is some parallel between that discussion and the framework in this paper, as Post's focus on responsiveness (Post, "Representative Democracy," 282) is not unrelated to considerations of accountability. At the same time, it neglects considerations of selection and focuses almost exclusively on issues related to free expression.

offered support for starting clinical trials for the company's products at one of the state's public universities, as well as favorable treatment from government health officials.²⁶

2. Senator Robert Menendez of New Jersey was indicted on bribery charges. Menendez allegedly accepted gifts from a supporter worth nearly \$60,000, as well as a Super PAC contribution of \$700,000. In exchange, he reportedly promised favors, including (i) an attempt to modify Medicare's reimbursement policies in a way that would have been highly advantageous for his supporter and (ii) help obtaining visas for the individual's girlfriends.²⁷

Representative democracies count on elected officials to enact policies that will bring about outcomes that their constituents will approve of because, if they fail to do so, they will lose office, which is designed to be highly valued. Yet, quid pro quo corruption raises the possibility that elected officials could, as in the cases of McDonnell and Menendez, be promised benefits valuable enough to make it worth their while to act in a way that they would not if they were properly motivated by re-election. Thus, quid pro quo corruption can weaken the effectiveness of the system of accountability on which representative democracy's attractiveness hinges. This explains *how* and *why* quid pro quo corruption threatens to undermine the integrity of representative democracy.

Yet this explanation of the challenge posed by quid pro quo corruption renders it problematic to insist that *only* the prevention of quid pro quo corruption could justify restrictive reform measures. Money can undermine the system of accountability, even in the absence of the kind of explicit exchange of money for official favors that distinguishes quid pro quo. To see this, consider the following example:

Revolving Door: A defense contractor reliably offers supportive public officials (and/or their family members and staffers) lucrative lobbying positions when they leave office. It does so, in part, to signal to current office holders that such opportunities will be available to those who loyally advance its interests. In this way, public officials may be *induced* to provide favors—in the form of special tax exemptions, contracts to provide goods to government, or assistance with regulatory agencies—that they would not otherwise support or prioritize.

²⁶ Trip Gabriel, "As Virginia Trial Ends, Jury is Asked to Decide if Ex-Governor Was Corrupt, or Hapless Husband," *The New York Times*, Aug. 29, 2014, <http://nyti.ms/1B1EWeg>; Jonathan Weisman, "Former Virginia Governor Sorry for Accepting Gifts, but Defends Loan Deals," *The New York Times*, Aug. 26, 2014, <https://nyti.ms/1pDSR6F>.

²⁷ Matt Apuzzo, "In Menendez Inquiry, Government Renews Push for Friend's Cooperation," *The New York Times*, March 26, 2015a, <https://nyti.ms/1Gr8rKE>; Matt Apuzzo, "Senator Robert Menendez Indicted on Corruption Charges," *The New York Times*, April 1, 2015b, <https://nyti.ms/1yB9T6h>.

Importantly, because such inducement does not involve pre-arrangement between donors and candidates, there is no quid pro quo. Nevertheless, in this kind of case, money competes with the reelection incentive in just the same way that caused us to worry about quid pro quo corruption—it weakens officials’ reasons for pursuing policy that they anticipate their constituents favoring.

There are some reasons to worry that the kind of influence at stake in *Revolving Door* is common in the U.S. system. Anecdotally, former lobbyist Jack Abramoff explained that his strategy was to become close to the Chief of Staff in a congressional office:

After a number of meetings with them... I would say a few magic words: ‘When you are done working for the Congressman, you should come work for me at my firm.’ With that... I owned him... No one even knew what was happening, but suddenly, every move that staffer made, he made with his future at my firm in mind.²⁸

There is systematic empirical evidence consistent with the spirit of Abramoff’s claim. Since 2000, over 30 percent of departing House members and 40 percent of departing Senators have registered as lobbyists (compared to less than 10 percent in the mid-1970s).²⁹ Moreover, members who have staffers who go on to work for lobbying firms are more productive (e.g., in terms of sponsoring legislation) in those staffers’ last terms and that productivity occurs in those parts of the economy (such as health and banking) in which there are substantial lobbying opportunities.³⁰

If quid pro quo agreements are apt targets of regulation because they threaten to undermine the system of accountability that justifies the representative system, then when money has a similar effect—even in the absence of an explicit ex ante arrangement—it is also appropriate to consider regulation.³¹ Indeed, it is not clear why the case for regulation would be weaker if Senator Menendez sought changes to Medicare’s reimbursement policy because he *anticipated* that doing so would induce

²⁸ Jack Abramoff, *Capitol Punishment: The Hard Truth About Washington Corruption* (Washington, DC: WND Books, 2011), 95.

²⁹ Jeffrey Lazarus, Amy McKay, and Lindsey Herbel, “Who walks through the revolving door? Examining the Lobbying Activity of Former Members of Congress,” *Interest Groups & Advocacy* 5, no. 1 (2016): 85, <https://doi.org/10.1057/iga.2015.16>.

³⁰ Michael E. Shepherd and Hye Young You, “Exit Strategy: Career Concerns and Revolving Doors in Congress,” *American Political Science Review* 114, no. 1 (2020): 270–84, <https://doi.org/10.1017/S0003055419000510>; for a formal model with compatible results, Justin Fox and Lawrence Rothenberg, “Influence without Bribes,” *Political Analysis* 19, no. 3 (2011): 325–41, <http://doi.org/10.1093/pan/mpr016>.

³¹ For related arguments, see Charles R. Beitz, “Political Finance in the United States: a Survey of Research,” *Ethics* 95, no. 1 (1984): 137; Beitz *Political Equality*, 203; Thomas F. Burke, “The Concept of Corruption in Campaign Finance Law,” *Constitutional Commentary* 14, no. 1 (1997): 137–138; Lessig *Republic, Lost*, 245.

wealthy constituents to offer him lucrative private opportunities. In such a case, private money effectively overrides the incentive to pursue constituents' interests established by the electoral system. This is worrisome for just the same reason that quid pro quo corruption is worrisome. Thus, if there is a case for regulation with regard to quid pro quo corruption, it extends to instances of illicit influence that do not involve prearranged agreements.³²

In recent years an important movement has challenged the Court's focus on quid pro quo corruption, arguing that although the Court's focus on preventing corruption is appropriate, its conceptualization of corruption is objectionably narrow.³³ The next two sections argue that such accounts remain too narrow to serve as comprehensive frameworks for evaluating systems of campaign finance.

IV. PRIVATE BENEFIT ACCOUNTS

Zephyr Teachout argues that the Supreme Court's embrace of a conception of corruption limited to quid pro quo exchanges is emblematic of a view that mistakenly regards corruption as an egregious, but relatively uncommon, abuse of authority (along the lines of the deliberate monetization of political power by Menendez and McConnell).

By contrast, Teachout emphasizes the importance of reclaiming the more capacious account of corruption that animated the Constitution's design. She defines this *Private Benefit* account as the:

Self-serving use of public power for private ends, including, without limitation, bribery, public decisions to serve private wealth made because of dependent relationships, public decisions to serve executive power made because of dependent relationships, and use by public officials of their positions of power to become wealthy.³⁴

³² In a number of cases, the U.S. Supreme Court experimented with more expansive conceptions of corruption meant to recognize this pressure. For instance, in *Nixon v. Shrink Missouri Government PAC*, the Court held that the concern with corruption was not "confined to bribery of public officials" and extended "to the broader threat from politicians too compliant with the wishes of large contributors" (Nixon, 528 U.S. 377, 389 (2000); similarly, see *Federal Election Commission v. Colorado Republican Federal Campaign Commission*, 533 U.S. 431, 441 (2001) and *McConnell v. FEC*, 540 U.S. 93, 143 (2003)). Unfortunately, none of these decisions carefully explicate the theory of corruption on which they rely; that is, they do not explain what it means for an official to be "too compliant" with large donors.

³³ For important statements of this position, see Samuel Issacharoff, "On Political Corruption," *Harvard Law Review* 124, no. 1 (2010): 118–142; Lessig *Republic, Lost*; Zephyr Teachout, "The Anti-Corruption Principle," *Cornell Law Review* 94 no. 2 (2009): 341–414; Zephyr Teachout, *Corruption in America* (Cambridge: Harvard University Press, 2014).

³⁴ Teachout, "The Anti-Corruption Principle," 373–374; also see Issacharoff, "On Political Corruption," 126.

Importantly, Teachout explains that on this view:

The centerpiece of a charge of corruption is intent... the purpose—the moral attitude—is essential to the definition. A corrupt political actor will either purposely ignore, or forget, the public good as he uses the reins of power.³⁵

So, according to the Private Benefit account, an actor is corrupt if he or she intentionally and inappropriately uses public power for personal benefit. Although rarely adequately emphasized, the modifier “inappropriately” is important because an official may often use public power to pursue his or her private interests in *unobjectionable* ways. For instance, if a legislator carefully and conscientiously works to bring about results that her constituents will approve of, in order to bolster her case for re-election, she is—in a sense—using public power for private benefit. Nevertheless, the system of accountability is functioning well: the official is properly responsive to the incentives generated by the electoral system.

This private benefit account can explain the corruption at stake in *Revolving Door*, which is problematically excluded by the Court’s narrower account. By providing favors to the defense industry in the hope of securing a lucrative position after leaving office, the official intentionally and inappropriately uses public power to pursue private wealth. This is objectionable for the same reasons that it is objectionable to engage in quid pro quo corruption—the representative, who was granted special political power in the hope that their position of pivotality and accountability could generate better policy results for constituents, is inappropriately using it for personal benefit. That the Private Benefit account recognizes this and does not arbitrarily limit the scope of concerns about corruption to quid pro quo agreements is the source of its appeal.

Nevertheless, the Private Benefit account is itself too narrow to capture important concerns about public officials being overly compliant with moneyed interests. To see this, consider the following example:

Lobbying: Officials have inadequate time and legislative resources to pursue all of the policy changes that they favor. As a result, they may be more likely to make efforts in areas in which they have well-organized allies. Lobbyists may gain influence by providing valuable political intelligence and policy expertise that lowers the cost of pursuing certain goals.³⁶

³⁵ Teachout, “The Anti-Corruption Principle,” 382, 374.

³⁶ Richard L. Hall and Alan V. Deardorff, “Lobbying as Legislative Subsidy,” *The American Political Science Review* 100, no. 1 (2006): 69–84; Christopher S. Cotton and Arnaud Déllis, “Informational Lobbying and

For instance, a legislator may favor both a new program to aid the homeless and the development of a new weapons system for the Navy. If only the weapons system has an organized and well-financed group of supporters who can help research policy options, build a coalition, and cultivate public support, it may be comparatively more attractive for the legislator to pursue that project. The existence of the lobby lowers the cost of pursuing it—in terms of the time and legislative resources that the official will need to devote to it in order to be successful. Since nearly eighty percent of money spent on lobbying in recent years comes from corporations or associations representing business interests,³⁷ legislators seeking to efficiently pursue their goals may, all else equal, find it rational to prioritize projects backed by such business interests. In doing so, the legislator is pursuing his goals as efficiently as possible and, importantly, does not “intentionally and inappropriately use public power for personal benefit.”³⁸ There is, then, no corruption from the perspective of the private benefit account.

However, it would be wrong to conclude that there is nothing amiss. A system run through with such influence would generate policy results that disproportionately reflect the preferences and interests of powerful business groups. That, though, violates the egalitarian constraint implied by our account of representative democracy’s appeal by giving some more political power than others in ways that do not help address the Accountability or Selection Problems (see implication #4 in Section I) and cannot be expected to be acceptable to all.³⁹ Since the example suggests that a system can

Agenda Distortion,” *The Journal of Law, Economics, and Organization* 32, no. 4 (2016): 762–93, <https://doi.org/10.1093/jleo/eww005>; relatedly, see Sanford C. Gordon and Catherine Hafer, “Flexing muscle: Corporate political expenditures as signals to the bureaucracy,” *American Political Science Review* 99, no. 2 (2005): 245–61. I do not claim that this is the only mechanism by which lobbying can affect the behavior of public officials (for evidence of lobbying for distributive benefits, see Hye Young You, “Ex post lobbying,” *The Journal of Politics* 79, no. 4 (2017): 1162–176, <http://dx.doi.org/10.1086/692473>), nor do I deny that lobbying can often play a salutary role in representative government.

³⁷ Lee Drutman, *The Business of America is Lobbying* (Cambridge: Oxford University Press, 2015), 9, <https://doi.org/10.1093/acprof:oso/9780190215514.001.0001>.

³⁸ To be sure, the claim is not that lobbyists can therefore get whatever policies they prefer. Existing policy is itself the result of a competitive process and can, therefore, be very difficult to change. Frank R. Baumgartner, Jeffrey M. Berry, Marie Hojnacki, Beth L. Leech, and David C. Kimball, *Lobbying and Policy Change: Who Wins, Who Loses, and Why* (Chicago: University of Chicago Press, 2009), <https://doi.org/10.7208/chicago/9780226039466.001.0001>. Officials are constrained by electoral considerations. The point is only that, even if representatives are not inappropriately pursuing their private interests, an unrepresentative set of lobbying firms could affect representatives’ priorities.

³⁹ Estimates suggest that about 90 percent of special interest political spending is directed towards lobbying, thereby dwarfing the money spent on campaign contributions. Stephen Ansolabehere, John M. de Figueiredo and James M. Snyder Jr., “Why Is There so Little Money in U.S. Politics?” *The Journal of Economic Perspectives* 17, no. 1 (2003): 105–130, <https://doi.org/10.1257/089533003321164976>; Brian Kelleher Richter, Krislert Samphantharak, and Jeffrey F. Timmons, “Lobbying and Taxes,” *American Journal of Political Science* 53, no. 4 (2009): 853–909, <https://doi.org/10.1111/j.1540-5907.2009.00407.x>.

be objectionably compliant with the wishes of well-financed interest groups even if officials do not intend to use public office for private benefit, we can conclude that the Private Benefit account exaggerates the importance of public officials' intentions.

An additional example helps to illustrate this:

Public Favors: Just as congressional leaders were preparing to pass a 2,000 page omnibus tax and spending bill, lobbyists succeeded in preserving a loophole that allows hotels, restaurants and casinos to “put real estate in trusts and avoid taxes. They won support from the top Senate Democrat, Harry Reid... Some executives at companies with the most at stake are also big campaign donors. For example, the family of David Bonderman... has donated \$1.2 million since 2014 to the Senate Majority PAC, a campaign fund with close ties to Mr. Reid and other Senate Democrats... [Spokesmen for Reid and Bonderman] both said it would be wrong to presume his contributions to Mr. Reid had played any role in the help his companies received.”⁴⁰

It is instructive to contrast this case with *Revolving Door*. The crucial difference between the two is that there is no allegation that Harry Reid received cash payments or other personal benefits (such as the job with the defense contractor received by the official in *Revolving Door*) in exchange for supporting the loophole. Instead, the allegation is that Reid benefited from contributions made to an allied PAC.⁴¹ Such contributions cannot legally be used for private consumption; instead, their primary value lies in

Furthermore, there is evidence that the deliberate political efforts of corporations are almost exclusively focused on lobbying, with campaign contributions largely an afterthought. Lee Drutman and Daniel J. Hopkins, “The Inside View,” *Legislative Studies Quarterly* 38, no. 1 (2013): 5–30, <https://doi.org/10.1111/lsq.12001>. There is also evidence that lobbying spending is dominated by a relatively small set of major business interests. Lee Drutman, Matt Grossmann, and Timothy LaPira, “The Interest Group Top Tier.” In *Can American Govern Itself?*, eds. Frances E. Lee and Nolan McCarty (Cambridge: Cambridge University Press, 2019), <https://doi.org/10.1017/9781108667357>. These findings may seem to be at odds with Baumgartner et al. *Lobbying and Policy Change*, 9, which finds that about a quarter of lobbyists represent citizen groups. However, this is just a count of participants and does not control for the resources that such participants are able to devote to their work. Furthermore, it fails to recognize that participating citizens' groups themselves overwhelmingly represent the well-resourced; as the authors put it, citizens' groups “display little interest in the problems of low-income Americans.” Ibid., 256.

⁴⁰ Eric Lipton and Liz Moyer, “Hospitality and Gambling Interests Delay Closing of Billion-Dollar Tax Loophole” *The New York Times*, Dec. 20, 2015, <https://www.nyti.ms/1OhxK7R>.

⁴¹ This appears to be common fare in the U.S. system: there is evidence that legislators who are in position to regulate firms receive significant contributions as a result. Eleanor Neff Powell and Justin Grimmer, “Money in Exile: Campaign Contributions and Committee Access,” *The Journal of Politics* 78, no. 4 (2016): 974–988, <http://dx.doi.org/10.1086/686615>. There is also evidence that donors are given special access to legislators. Joshua L. Kalla and David E. Broockman, “Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment,” *American Journal of Political Science* 60, no. 3 (2016): 545–558, <https://doi.org/10.1111/ajps.12180>.

helping to elect like-minded candidates. During the 2013–2014 election cycle, the PAC in question spent the vast majority of its money, over forty million dollars, on negative advertisements aimed at Republican candidates.⁴²

However, if (1) all Reid received was money to spearhead a campaign against Republican candidates and (2) Reid believed that raising such money was an important component of a strategy aimed at advancing the public good, then there would be nothing objectionable about his behavior according to the Private Benefit standard. Rather than inappropriately using public power for private benefit, he was plausibly doing his best, within the confines of the system, to pursue his conception of the public good. (This could be true as long as Reid reasonably believed that the cost of the loophole to the public is outweighed by the benefits to the public of raising the additional money to defeat Republican candidates.) Nevertheless, insofar as the system is structured such that public officials are strongly incentivized to ingratiate themselves to wealthy supporters in order to effectively advance their policy agenda, it introduces unjustified inequalities in political power (again, in violation of implication #4 in Section I). Thus, like *Lobbying*, this example suggests that political officials can be objectionably compliant with the wishes of wealthy donors even while conscientiously pursuing the public good.⁴³

Furthermore, the intentions of political actors are relatively inscrutable. Was Reid merely trying to improve the chances that his party could successfully pursue its agenda? Was he trying to gain power in the party? Was he doing so in order to have more power to shape the party's agenda or because he thought that doing so would be valuable if he entered the private sector after leaving office? Was he trying to serve wealthy private citizens with the expectation of a reward at a later date? Did he come to genuinely believe that the "loophole" was good policy? Was he motivated by some combination of these considerations? Plainly, Reid's behavior is compatible with a wide variety of interpretations: while some are corrupt according to the Private Benefit account, others are not. Ultimately, since representative systems work, in important part, by trying to yoke officials' self-interest to the public good, any approach to reform that hinges on drawing a sharp distinction between the pursuit of private interests and

⁴² "Senate Majority PAC," Center for Responsive Politics, <https://www.opensecrets.org/orgs/summary.php?id=D000027357>.

⁴³ In the interests of avoiding a semantic dispute, I wish to remain agnostic about whether there is anything "corrupt" going on in these cases. My point is not to contribute to the conceptual debate about what counts as corruption, but rather to stress that even this broader notion of corruption would be insufficient as a guide to the evaluation of systems of campaign finance.

the pursuit of the public good is bound to raise complicated interpretive questions).⁴⁴ The two pursuits will often be observationally equivalent.

Whereas an ideal representative system provides effective incentives for elected officials to promote the interests of their constituents, *Lobbying and Public Favors* suggest that wealthy individuals and groups may be able to redirect the incentives of officials and thereby bend public policy in their favor, and they may be able to do so *even if* public officials scrupulously avoid the inappropriate use of public power for *personal* benefit. This is a violation of the egalitarian constraint that was an implication of the preceding explanation of representative democracy's appeal. In sum, the delegation at the heart of a system of representative democracy can be distorted, and in need of reform, even without actors intentionally using public power for private gain.⁴⁵

V. INSTITUTIONAL CORRUPTION

A different influential approach sets aside individual intentions and focuses instead on *institutional* corruption. Dennis Thompson writes that institutional corruption “violates principles that promote the distinctive purposes of the institution.”⁴⁶ Lawrence Lessig has influentially developed this idea in diagnosing the difficulties with the U.S. system of campaign finance. In regard to Congress, Lessig contends that:

Ours was to be a government with a branch that would be ‘dependent on the people alone’... Thus the charge that our government suffers from ‘dependence corruption’ is the claim that it... has become dependent on an influence other than ‘the people.’⁴⁷

Importantly, this approach does not turn on concerns about officials intentionally and inappropriately using public power to pursue their private interests; instead, Lessig contends that the corruption that hounds Congress is “the ordinary behavior of good souls within a corrupted system.”⁴⁸ The thought is that because candidates

⁴⁴ For related discussions, see Dennis F. Thompson, *Ethics in Congress: From Individual to Institutional Corruption* (Washington, D.C.: Brookings Institution Press, 1995); Kolodny, *The Pecking Order*, 168.

⁴⁵ It is possible that advocates of these broader corruption-based accounts would agree that there are principled reasons for reform that their accounts cannot capture, but choose to set them aside for reasons of legal strategy. Regardless, it seems to me important to evaluate whether mitigating corruption, properly conceived, could provide a comprehensive framework for evaluating systems of campaign finance.

⁴⁶ Dennis F. Thompson, *Ethics in Congress: From Individual to Institutional Corruption* (Washington, D.C.: Brookings Institution Press, 1995), 7.

⁴⁷ Lawrence Lessig, “Institutional Corruption Defined,” *Journal of Law, Medicine & Ethics* 41, no. 3 (2013): 65, quoting *Federalist* 52, <https://doi.org/10.1111/jlme.12063>: 65.

⁴⁸ Lawrence Lessig, *The USA is Lesterland* (2014), 1, <https://lesterland.lessig.org>. As I understand it, Thompson’s account is slightly different from Lessig’s, even if the former inspired the latter. On

are dependent on a class of wealthy donors, they are forced to serve the interests of those donors. While it is hard to blame individual candidates (who cannot unilaterally alter the incentives generated by the system), the overall effect is to undermine the institution's distinctive purposes.

For advocates of institutional approaches, the primary concern about the existing system is that members of Congress are dependent on wealthy contributors and must, as a result, be sure to secure their support. Lessig highlights three problematic consequences of this unintended dependence:⁴⁹

1. Members of Congress are distracted from their primary responsibilities, such as law-making and deliberation, by the need to raise money.
2. Members' legislative priorities are importantly shaped by their need to raise money from a small and unrepresentative group of potential donors.
3. Ordinary citizens see the dependence of public officials on big donors, conclude that Congress is controlled by special interests, and turn their back on public engagement and participation.

The overriding worry is that “our Congress has evolved... a dependence on the funders” that distorts the work that they do.⁵⁰ Wealthy citizens, Lessig argues, have effectively co-opted the representative system and distorted its output.

By recognizing that this can happen even without quid pro quo corruption or an intention to use public power for illegitimate private benefit, the institutional approach offers a broader and more realistic diagnosis of the threats that money poses to representative democracy than more traditional corruption-based accounts. Indeed, this position, unlike accounts focused on quid pro quo corruption or illegitimate private benefit, can explain what is problematic about *Lobbying* and *Public Favors*.

Thompson's account, what distinguishes institutional corruption is that “it encompasses conduct that under certain conditions is a necessary or even desirable part of institutional duties,” such as fundraising or constituency service (Thompson, *Ethics in Congress*, 7). So, it is personal corruption if a legislator takes a bribe to vote in a given manner, it is institutional corruption if the legislator takes a campaign contribution in exchange for doing so (ibid., 29–30). Either way, though, Thompson thinks that what is at stake is “the improper use of public office for private purposes” and that individuals “should be held accountable” (ibid., 7). Moving forward, I will focus on Lessig's account because it seems more well-suited to identify what has gone wrong in a case like *Lobbying*, where there does not appear to be inappropriate gain of either sort. Indeed, that example nicely illustrates the potential value of an approach that focuses on the possibility that deformed institutions may structure the incentives of actors in ways that will simultaneously undermine the institution's purposes and plausibly render it a stretch to blame individual actors.

⁴⁹ Lessig, *Republic Lost*, ch. 10.

⁵⁰ Lessig, *Lesterland*, 21; also see Ian Shapiro, *The State of Democratic Theory* (Princeton: Princeton University Press, 2009), 59, <https://doi.org/10.1515/9781400825899>.

Despite being able to account for these cases, institutional corruption is nevertheless insufficient as a framework for evaluating systems of campaign finance. To see this, consider the following example:

Oligarchia: This society refuses to provide public funding and prohibits large campaign contributions, as well as independent expenditures. As a result, the only citizens with the resources to run successful campaigns are business tycoons. However, those who can afford to fund their own campaigns systematically share viewpoints with one another. Thus, while voters can take their pick of candidates, none of them will support policies that would jeopardize those candidates' shared interests—for instance, raising the capital gains tax or the minimum wage.

This example departs a little bit from the kinds of cases that arguments for institutional corruption ordinarily depend upon (since the candidates in the example are not dependent on donors), but the same basic analysis applies: in particular, the problem in *Oligarchia* is that the government is not importantly dependent on the voters. Instead, *regardless* of what the voters want, they get a candidate who wants to keep both the capital gains tax and the minimum wage low.

Now, however, consider the following example, which slightly modifies the preceding one:

Competitive Oligarchia: This society refuses to provide public funding and prohibits large campaign contributions, as well as independent expenditures. As a result, the only citizens with the resources to run successful campaigns are business tycoons. However, there are substantial benefits connected to holding office, including public esteem and the opportunity to directly exercise political power. For many of the society's wealthiest members, these benefits are sufficiently valuable to incentivize them to act strategically in the pursuit of public office. As a result, an incumbent who is tempted to advance his or her own interests at the expense of those of her constituents (say, by keeping the capital gains tax low) can count on being opposed by a well-resourced opponent who is willing to faithfully serve constituents. In light of this, the rational path for officials is to reliably serve constituents.

Here, there is little reason to think that elected officials are “dependent on an influence other than the people.” *Competitive Oligarchia*, then, is not corrupt according to the standard of Lessig's institutional corruption.

Surely, however, the system of campaign finance in *Competitive Oligarchia* is suboptimal and in need of reform. (Indeed, if pressed, it seems likely that proponents

of the institutional corruption position would agree.) An obvious worry about the example is that it allows a special class of people to have privileged access to high office for reasons (i.e., their wealth) that seem largely irrelevant to their capacity to carry out the demands of those offices. In the language of the representation-enabling account: it introduces inequalities that do not help overcome the Accountability and Selection problems and do not seem to be able to be given a justification that could be acceptable to all. That *Competitive Oligarchia* is manifestly suboptimal, without being objectionable from the perspective of institutional corruption, suggests that the institutional corruption position cannot serve as a *comprehensive* framework for evaluating systems of campaign finance or proposals for reform.

VI. EQUAL OPPORTUNITY FOR POLITICAL INFLUENCE

The concern described at the end of the preceding section suggests the appeal of approaches that move beyond corruption and insist on the importance of giving citizens equal opportunity to influence policy. Following Joshua Cohen, we can understand this approach to require (a) that one person not “have greater chances than another to attain a desirable position because of some quality that is irrelevant to performance in the position” and (b) that this principle of political equality “will normally override other considerations, apart from the most fundamental requirements of justice.”⁵¹ A point worth emphasizing here is that *all* of the contender positions (corruption-based, representation-enabling, etc.) are egalitarian in the broader sense that they regard citizens as equals—what distinguishes the approach under consideration in this section is the thought that this commitment to equality implies that unequal opportunity for political influence is necessarily objectionable.

⁵¹ Cohen, *Philosophy, Politics, Democracy*, 272; also see Ronald Dworkin, “The Curse of American Politics,” *The New York Review of Books*, Oct. 17, 1996. As Thomas Scanlon points out, this formulation may be overly broad. For instance, a wealthy individual may have greater opportunity for influence because (a) voters, even if erroneously, view wealth as a sign of competence and tend to be more willing to vote for wealthy candidates or (b) they are able to induce officials, through beneficial treatment (e.g., large campaign contributions) to govern in ways that are consistent with their interests. While both are deviations from equal opportunity for political influence, the former may simply be a consequence of a commitment to self-governance. Scanlon concludes from this that a more precise formulation would say that citizens should have “equal access to the *means* for attaining office and, more generally, influencing policy.” Thomas Scanlon, *Why Does Inequality Matter?* (Oxford: Oxford University Press, 2018), 80. While I understand the intuition, I am not sure whether this is right. It seems to imply, controversially, that we should regard a society that never elects poor citizens to office as consistent with political equality if the underlying mechanism is the bias of ordinary voters. In any case, I bracket this interpretive dispute, which will not make a difference to the analysis that follows.

At least on first glance, this approach is attractive because it can provide an intuitive explanation of what is wrong with the full range of examples that we have discussed—*Lobbying*, *Public Favors*, and both versions of *Oligarchia*. Each of these examples involves a scenario in which citizens have a greater opportunity to exercise political power because of their wealth, a quality that—in democratic societies that do not limit suffrage to property holders—is ostensibly regarded as irrelevant to political performance. The scenarios in the examples, then, contravene the requirement that citizens “who are equally motivated and equally able... ought to have equal chances to exercise [political] influence.”⁵²

However, this approach also faces limitations. Imagine that a society implements a policy that prohibits private spending and gives all citizens vouchers of equal value to contribute towards political campaigns in their district.⁵³ Suppose that this scheme is an improvement from the perspective of equalizing ordinary citizens’ opportunity for political influence, but that:

- in the first case, it is not generously funded. As such, few challengers are able to raise resources sufficient to effectively publicize criticism of the incumbents’ performance, and citizens are, as a result, insufficiently informed about such performance, as well as alternative points of view.
- in the second case, citizens are geographically sorted by party such that—in most districts—challengers have a very difficult time raising funds to run a competitive campaign. Once again, suppose that citizens are—as a result—insufficiently informed about the performance of incumbents, as well as alternative points of view.

These imagined systems, however much of an improvement they are from the perspective of equal opportunity for political influence, are problematic with respect to considerations of accountability, selection, and information.⁵⁴

Importantly, in both cases, it is plausible that we could improve the system overall by *introducing* inequalities in opportunity for influence. The system in the first case may, in principle, be improved by permitting a certain level of private spending, notwithstanding the resulting inequality in opportunity for political influence. This

⁵² Cohen, *Philosophy, Politics, Democracy*, 272.

⁵³ For such a proposal, see Ackerman, “Crediting the Voters.”

⁵⁴ To be clear, the schemes do not address inequality in power between constituents and their representatives, but they may still be substantial improvements from the perspective of equal opportunity for political influence, since they help equalize such opportunities between ordinary citizens. For related discussion, see Ryan Pevnick, “Does the Egalitarian Rationale for Campaign Finance Reform Succeed?” *Philosophy & Public Affairs* 44, no. 1 (2016): 46–76, <https://doi.org/10.1111/papa.12064>.

may particularly be so if, as David Estlund suggests, that private spending is taxed and the revenue used for additional public funding.⁵⁵ Similarly, in the second case, one attractive solution may involve giving candidates who satisfy a standard of viability a certain level of resources to run a campaign, *even if* that effectively gives them (and, by extension, their supporters) more opportunity for influence than other citizens. Insofar as this suggests the possibility of improvements that would *introduce* unequal opportunity for political influence, we should resist the view that considerations of equality “override other considerations.”⁵⁶

The bottom line is that even if equal opportunity for political influence is important and can explain the objectionability of *Competitive Oligarchia*, evaluating systems of campaign finance or proposals for reform requires attending to a wide range of considerations that are not reducible to equal opportunity for political influence. Furthermore, there is no reason to expect that equal opportunity for political influence should always, or even ordinarily, take priority over other such considerations.

VII. THE REPRESENTATION-ENABLING APPROACH REVISITED

As described at the outset, the basic idea underlying the representation-enabling approach is that the very reasons that we have to delegate political power to elected representatives can provide a set of desiderata by which to evaluate systems of campaign finance. By linking discussion of campaign finance reform to arguments for representative democracy, the representation-enabling approach systematically brings this broader range of important considerations—related to accountability, selection, and information—into view. This gives it an advantage over the dominant frameworks in this literature, which—as we have seen—are poorly positioned to appreciate the full range of considerations that are relevant to controversies surrounding campaign finance.⁵⁷

⁵⁵ David Estlund, “Political Quality,” *Social Philosophy and Policy* 17, no. 1 (2000): 127–160.

⁵⁶ Cohen, *Philosophy, Politics, Democracy*, 272. One may be tempted to say, in response, that what matters is equal opportunity for *informed* influence. Since these cases trade on a conflict between equal opportunity for influence and informed influence, they might also seem objectionable from such a perspective. Yet, once one goes down this path, the distinctive aspect of the position risks being lost, for—as our cases illustrate—what it takes to ensure that citizens are informed might, simultaneously, undermine the requirement of equal opportunity for influence. Either the position privileges equal opportunity for influence, in which case it generates the unattractive results associated with the examples or it is forced to abandon the distinctive view that such considerations take priority, thus collapsing into something like the more pluralistic account on offer here. Yet, if the latter is the case, it would be preferable to offer a framework and justification that aligns with it.

⁵⁷ While the account implies an egalitarian constraint (Implication #4 in Section I), that constraint does not – as in the account described in the preceding section – take priority over all other considerations. A different approach to campaign finance, influentially pursued by Charles Beitz (Beitz, *Political Equality*, chs. 5 and 9), holds that there is no overriding egalitarian requirement with respect to the distribution of

Let me now briefly mention two important implications of accepting the representation-enabling view. Begin with worries related to selection. Campaigns—even controlling for inflation—have become considerably more expensive over time. One result is that elected officials have to spend more of their time raising campaign funds, as well as further time developing and nurturing in-person relationships with donors. While this may lead to dependence corruption and unjustified inequality in political influence, there is also a largely overlooked concern about the effect that such a system has on the kinds of individuals who run for, and win, public office. Insofar as such fundraising demands make it considerably less attractive to run for office, we should expect those demands to particularly affect those potential candidates with other attractive options.⁵⁸ There are, then, *prima facie* selection-based worries about the existing system of campaign finance that are, conceptually, independent from considerations related to equal opportunity for political influence and inappropriate dependence.

A second point is that there are important, although largely overlooked, *informational* worries about the existing system. For instance, in the 2021–2022 cycle, the average House challenger spent just over \$300,000 (or, under *fifty cents* per potential constituent), compared to the average incumbent's nearly \$3,000,000.⁵⁹ The typical challenger, then, cannot afford to send even a single piece of mail to potential constituents during the course of his or her campaign. Under such circumstances, one may reasonably worry about whether citizens will have the requisite information to adequately assess the performance of incumbents.⁶⁰ The worry is *not* that incumbents have an unjustified advantage (though that may also be true), but that such uncompetitive elections fail to provide citizens with sufficient information about the incumbent's performance.⁶¹

political power *in particular*, but that the broader system of government needs to be justifiable to citizens as equals in order to satisfy the requirements of political equality. This is a more capacious (and, I think, attractive) approach than the ones that I described in the previous section. It is similar to the representation-enabling approach in that it is ultimately rooted in an egalitarian contractualist perspective. I am not sure, then, whether what I argue for in this paper is foundationally distinct from Beitz's view. Nevertheless, the representation-enabling approach may have distinctive advantages in certain contexts. For instance, it may highlight considerations to which Beitz's "complex proceduralism" may be less attuned. An example here is the importance of designing elections to be effective selection devices. Approaching campaign finance from the perspective of political equality is unlikely to lead such concerns, important though they are, to be front of mind. This is not meant as principled criticism of Beitz's approach, which may perhaps provide a somewhat different route to a similar position.

⁵⁸ Andrew B. Hall, *Who Wants to Run?: How the Devaluing of Political Office Drives Polarization* (Chicago: University of Chicago Press, 2019).

⁵⁹ "Incumbent Advantage," Center for Responsive Politics <https://www.opensecrets.org/elections-over-view/incumbent-advantage>.

⁶⁰ Thompson, *Just Elections*, 113.

⁶¹ An objection is that this is an equilibrium effect—insofar as representatives act in ways that are off the path of play, challengers will secure adequate funding, and voters will be aware of the missteps of their

The representation-enabling approach, then, calls attention to a broad range of important considerations (related to accountability, selection, and information) that are typically ignored by the dominant approaches to campaign finance reform. Still, an argument purporting to show that the representation-enabling approach favors some particular set of institutional reforms would be dubious. One reason for this, which I mentioned at the outset, is related to the unpredictability of reform measures. Another reason is that there are many important issues about which little is known. For instance:

1. How do different systems of campaign finance affect the political knowledge of citizens, particularly with respect to their ability to hold incumbents accountable for performance?
2. How does the homogeneity of office holders affect the policymaking process?⁶²
3. How do different systems of campaign finance affect the diversity and quality of candidates?⁶³

Although there are a few studies taking up these questions (see the recent work cited in the preceding two footnotes), they have yet to benefit from the sustained attention devoted to questions related to corruption and inequality. One important reason for this is that the other frameworks have implicitly shaped the empirical literature by highlighting questions about corruption and equality of political power as those that are most relevant to evaluating systems of campaign finance.

As noted at the outset, then, rather than putting the representation-enabling account forward as the immediate impetus for a particular reform platform, I prefer to think of it as a call for a broader study of campaign finance, as well as for an environment that facilitates policy experimentation and ex post evaluation.

representative. While there is surely some truth to such a response, it may not be sufficiently strong to vindicate the informational performance of the existing system. The large campaign chests of incumbents surely dissuade some candidates who, if they were able to run comparable campaigns, may be competitive.

⁶² Nicholas Carnes, "Does the Numerical Underrepresentation of the Working Class in Congress Matter?" *Legislative Studies Quarterly* 37, no. 1 (2012): 5–34, <https://doi.org/10.1111/j.1939-9162.2011.00033.x>; Nicholas Carnes and Noam Lupu, "Rethinking the Comparative Perspective on Class and Representation: Evidence from Latin America," *American Journal of Political Science* 59, no. 1 (2015): 1–18, <https://doi.org/10.1111/ajps.12112>; Patricia A. Kirkland, "Business Owners and Executives as Politicians: The Effect on Public Policy," *The Journal of Politics* 83 no. 4 (2021): 1652–68, <https://doi.org/10.1086/715067>.

⁶³ Adam Bonica, "Why Are There So Many Lawyers in Congress?" *Legislative Studies Quarterly* 45, no. 2 (2020): 253–89, <https://doi.org/10.1111/lsq.12265>; Alexander Fourniaies, "How Do Campaign Spending Limits Affect Elections? Evidence from the United Kingdom 1885–2019," *American Political Science Review* 115 no. 2 (2021): 395–411, <https://doi.org/10.1017/S0003055420001008>; Mitchell Kilborn and Arjun Vishwanath, "Public Money Talks Too: How Public Campaign Financing Degrades Representation," *American Journal of Political Science* 66, no. 3 (2022): 730–44, <https://doi.org/10.1111/ajps.12625>.

VIII. CONCLUSION

This paper has shown how one can use the reasons that we have for accepting representative democracy to construct a set of evaluative criteria for assessing systems of campaign finance. According to the representation-enabling approach, a system of campaign finance reform should be evaluated from the perspective of its capacity to enable effective accountability and selection, which requires that it make adequate information available to citizens. Finally, it ought not to introduce unequal political power unless doing so helps to realize these goals. These goals are the natural implication of a commitment to representative democracy, given the description of that regime type's appeal sketched at the outset.

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Competing Interests

The author has no competing interests to declare.

