

An Analysis on the History of Campaign Finance Reform Laws and the Impact of the Citizens United v. Federal Election Commission ruling on Campaign

Financing

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Issue

Have outsider interests overstepped their boundaries in regards to campaign financing?

- With the introduction of outsider interests into the American political system, campaign finance laws were enacted in order to curtail the potential influence of political donations.
 - Example: Representative John Bell of Tennessee introduced a bill which prohibited congressional assessments (donations), and effectively created the first federal campaign finance bill (1)
- One large contributor to the controversy behind modern campaign finance has been the recent ruling of the *Citizens United v. Federal Election Commission*. (2)
 - *Citizens United v. FEC* is a January 2010 Supreme Court case in which the court ruled 5 to 4 to allow corporations and unions to use their general treasuries to pay for independent expenditures, including political advertisements that expressly call for the election or defeat of a candidate, and electioneering communications immediately before an election. (3)
- The ruling expanded political power and access to non-profit groups and corporations, which has in turn seen an increase in the amount of money being involved in political elections

Statutory and Regulatory Concerns

- **Evolution of Campaign Finance laws:**
 - John Bell's 1837 law regarding the limitations of congressional "assessments" (AKA Donations) (1)
 - While the possibility for corruption was considered a problem for the time, campaign contributions were not seen as a prevalent influence of policy
 - formation of Political Action Committees (PACs) in the 1970s with the Federal Election Campaign Act (FECA) (4)
 - collective groups were able to contribute up to 5,000\$ per year to political candidates (4)
 - the Bipartisan Campaign Reform Act (BCRA)
 - Sought to ban untraceable money into elections and to minimize these sources of "soft" money (AKA untraceable money) (3)
- **Other important court cases regarding campaign financing**
 - "*Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976)
 - Ruled the following; limitations of public expenditures do indeed violate the 1st amendment, invalidated spending caps on such expenditures, and it upheld party restrictions between party members and donors (5)
 - *McCormick v. United States* (89-1918), 500 U.S. 257 (1991)
 - the court ruled that it is a federal crime to receive campaign contributions and to return an explicit promise or the promise official act (6)
 - *SpeechNow.org v. Fed. Election Comm'n*, 599 F.3d 686 (D.C. Cir. 2010)
 - Ruled that non-profit organizations have the same constitutional rights as individuals, and they aggregate unlimited amounts of contributions for limitless political expenditures (7)
 - *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010) (2)

Analysis

- **Impact of Campaign Finance Laws:**
 - The impact of PACs in the political process
 - research shows that PACs and lobbyists that are in frequent contact with lawmakers are much more successful in getting their message across. (8)
 - While it only took 2 years for the actions of FECA to be challenged, regulations were heavily implemented on communications between party members and donors, and policies regulating the influence of money in the political system were overall weakened.
 - While there may be legal regulations which are bound to prevent quid pro quos agreements, it is noted that there is a "Social Model of Contributing", which essentially states that contributions usually involves years of back and forth favors which eventually culminate into favorable policy implementation (4)
 - The impact of the *Citizens United* ruling
 - As a result of *Citizens United*, corporations and unions were given greater resources to express their political ideologies, and had the same freedoms and rights as individual human beings
 - in 2012, the total (spending) hit \$6.3 billion, a 19 percent increase over 2008 and a 188 percent increase over a decade (3)
 - Another outcome is the increased advocacy towards super PACs and 501(c)(4) organizations. 501(c)(4) organizations are non-profit groups which can participate in the election process, but do not have to register with the FEC . The increase of 501(c)(4) groups signifies that large amounts of money are being funneled into the political system through them, and that the money is becoming more difficult to track. (3)

Conclusion

- While there has been many instances of laws that have tried to limit the effects of the Citizens United ruling, campaign finance laws have been historically ineffective in combating the problem of excessive campaign contributions.
- Since the Supreme Court's ruling in *Citizens United v. Federal Election*, there has been a significant increase in non-profit organizations and PACs which have sought to influence voters towards certain political parties and ideologies.
- Overall, campaign finance laws have been undermined by the Citizens United ruling, and a fundamental reevaluation of how elections are funded in the United States is required

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