Citizens United and the New Politics of Campaign Finance

Paul S. Herrnson
University of Connecticut

University of Iowa
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Overview

- “Old” new politics of campaign finance
- Citizens United and Speechnow.org
- “New” new politics of campaign finance
Old New Politics of Campaign Finance

- Watergate
- Federal Election Campaign Act of 1974
  - Money spent in federal elections originates as limited voluntary donations by US citizens
  - Disclosure of significant transactions (GE $200)
  - Enforcement agency
  - Public funding option for presidential candidates
Fundraising is “linked” to public support
Demise of Old New Politics

- Court cases, amendments to FECA, regulatory decision making, loopholes
  - Soft money
  - Issue advocacy ads
- Presidential candidates reject public funds
- Bipartisan Campaign Reform Act of 2002
  - Curb soft money and issue advocacy ads
  - Limited success
    - Loopholes and challenges
- Citizens United...
Citizens United v. FEC

- **Background**
  - Citizens United sought to run TV commercials and air *Hillary: The Movie* on subscription TV

- **Supreme Court (5–4 decision)**
  - BCRA’s prohibitions against independent spending violate free speech rights, including those of incorporated groups…unconstitutional

- **Speechnow.org v. FEC**
  - Super PACs (independent expenditure-only ctes.)

- **Rulings** → more outside spending groups
  → more outside spending
  → greater influence of wealthy individuals and groups
State of Union Address, 2010

- **President Obama**: "Last week, the Supreme Court reversed a century of law to open the floodgates for special interests...to spend without limit in our elections."

- **Justice Alito**... frowning, shaking his head side to side while mouthing the words "Not true."
New Campaign Finance System

From 3 Letters…
  PAC (old system)
…To Alphabet Soup
  PACs
  Super PACs
  527 committees
  501 (c)s / social welfare organizations
  Corporations, trade associations, labor unions, others
The League of Conservation Voters

... An example of organizational complexity
Interest Group Spending in 2014

- Unreported spending activity? $8.3, 1%
- PAC contributions, $458.0, 42%
- Traditional PAC independent expenditures, $298.6, 27%
- Corporate, labor, 501(c), and other independent expenditures, $217.3, 20%
- Internal communications, $2.6, --%
- Single-candidate super PAC independent expenditures, $46.5, 4%
- Single-candidate 501(c) independent expenditures, $11.5, 1%
Effects of Outside Spending

... It’s Not Always a Race Between Two Candidates

- More than $650m in 2014
- 18 House races where parties and interest groups outspent both candidates
  - 47 where groups outspent one candidate
- 9 Senate races where groups outspent the candidates
- Mostly negative
  - Difficult to anticipate or respond
  - Voters not get balanced information
  - Weakens accountability
Single Candidate Super PACs & 501(c)s

Shadow campaign committees

- Exist to advance the career of one politician
- Raise funds from sources and in amounts prohibited to candidates
- “Uncoordinated” coordination
  - Events
  - Staff ties
  - Messaging
Candidate Super PACs and Campaign Committees, 2015–16

Receipts, $ Millions

<table>
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<tr>
<th>Candidate</th>
<th>Super PACs</th>
<th>Campaign Cte.</th>
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<tr>
<td>Bush</td>
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<td>Trump</td>
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Source: Center for Responsive Politics
Conclusion

- *Citizens United* helped usher in the new politics of campaign finance
- More outside spending groups
- More outside spending
- New fundraising dynamics
- Increased in influence of wealthy and well-organized groups and their backers
For More on Financing of Congressional Elections…

C O N G R E S S I O N A L E L E C T I O N S

Campaigning at Home and in Washington

P A U L S . H E R R N S O N

Thank you