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An Examination of Citizens United: Where We're Going and How We Got There

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**AN EXAMINATION OF CITIZENS UNITED: WHERE WE'RE
GOING AND HOW WE GOT THERE**

by

Stephanie M. Lewis

**Thesis submitted in partial fulfillment
of the requirements for the degree**

of

DEPARTMENTAL HONORS

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Abstract

Citizens United v. Federal Elections Commission (2010) has been touted as both champion and destroyer of First Amendment free speech rights. It remains a controversial decision of which we are only beginning to see its true effects. The case brought rise to the Super PACs commonly denounced in the media and the vast amount of money that comes with them. We have seen negative and positive campaign ads that candidates for election don't have to answer to. In order to truly understand these effects, I examined the Supreme Court's decision to determine its line of reasoning as well as media reactions to the case results. Many have expressed concern over a corporation's ability to buy elections by using their monetary resources for political advertisements. Others have taken a more humorous approach to the case outcome in order to explain the new regulations, or lack thereof, to the general public.

While it is still too early to tell just how much PACs could affect the election process, it is clear that there has been a large amount of money (over \$88 million on the 2012 election cycle alone) spent on media (such as television and radio advertisements) related to candidates for political office. Most of these advertisements have been negative in hopes of dissuading voters from certain candidates. More in-depth research would be required to determine how effective these ads are and ultimately how much of a true effect the extra money has made on the system.

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Introduction

The U.S. judicial system has generally maintained that public speech should be protected as much as possible unless regulation serves a legitimate government interest. The Supreme Court has historically sought to answer two questions regarding corporate speech: Does the government have the ability to regulate corporate speech? How far should that regulation extend? Over a number of cases, the courts have determined that the government can regulate corporate speech. The question of how far that regulation can extend, however, was in flux until January 2010.

Citizens United v. Federal Election Commission (2010) is a case from the Supreme Court that fundamentally deals with First Amendment issues related to corporate speech. The decision resulted in what many have thought to be complete deregulation of corporate spending. In today's highly polarized political realm, unregulated corporate speech can have a large impact on the outcome of elections and, ultimately, the creation of law. Members of the media have dedicated large amounts of time and energy to provide those of us who don't speak legalese with enough information to truly understand the impacts of this case. By examining the impacts of *Citizens United* on politics, we can begin to realize just how far corporate speech has come.

Research Questions

1. Did the Supreme Court come to a valid, or right, conclusion based on precedent and its logic?
2. Will the rise of the Super PAC lead to “purchased” elections (he who has the most money wins)?

Literature Review

In 2002, Congress passed the Bipartisan Campaign Reform Act (BCRA), also known as the McCain-Feingold Act. This act focused on restrictions related to “soft money” (money raised outside the regulations of federal campaign finance law) and electioneering communications, or “issue ads” (Federal Election Commission, 2011). The Federal Election Commission (FEC) (2011) defines electioneering communications as communications that refer to a clearly identified candidate for federal office, are publicly distributed on television or radio for a fee, are distributed within 30 days prior to a primary election or 60 days prior to a general election, and can be received by at least 50,000 or more voters in the district or state where the candidate is running for office or, in the case of presidential candidates, where the primary is being held. Under the BCRA, the FEC prohibited these communications from being funded by general treasury funds from corporations or labor unions and required that funding for these communications must be disclosed if the direct costs of producing and airing the issue ad amounted to \$10,000 or more (Federal Election Commission, 2011). Corporations and labor unions may, however, establish a “separate segregated fund” (known as a political action committee, or PAC) in order to receive donations from stockholders and employees from the company for electioneering communications (2 U.S.C §441b(b)(2), 2010).

In January 2008, Citizens United, a non-profit corporation, sought protection against BCRA restrictions that would have prevented the organization from showing *Hillary: The Movie* 30 days before a primary election. In the majority opinion from the Supreme Court, Justice Kennedy wrote that, “Section 441b is a ban on corporate speech notwithstanding the fact that a PAC created by a corporation can still speak... A PAC is a separate association from the corporation. So the PAC exemption from §441b’s expenditure ban, §441b(b)(2), does not allow

corporations to speak. Even if a PAC could somehow allow a corporation to speak—and it does not—the option to form PACs does not alleviate the First Amendment problems with §441b” (*Citizens United v FEC*, 2010). Kennedy further explains that, “If §441b applied to individuals, no one would believe that it is merely a time, place, or manner restriction on speech. Its purpose and effect are to silence entities whose voices the Government deems to be suspect.” The result of the decision permitted corporations the same First Amendment rights as individuals. However, they may not donate directly to candidate campaigns and must meet FEC disclosure and reporting requirements (Bebchuk, 2010).

Some scholars have argued that the decision in *Citizens United v. FEC* has simply streamlined the campaign donation process. In “After *Citizens United*,” Michael Kang (2010) explains that, according to the Supreme Court, the threat of corruption is the only legitimate reason the government can regulate campaign finance. He continues to say that the removal of campaign finance restrictions on corporations makes it easier for shareholders to use individual funds for political agendas. By loosening restrictions on expenditures, the Supreme Court made it easier for many individuals to donate to any one candidate, while also bypassing individual campaign restrictions using pre-tax dollars. Kang (2010) explains that the Court considers these to be independent expenditures and that they pose no risk for corruption. Following that line of reasoning, the expenditures should not be regulated, according to the court.

Others have argued that the Supreme Court’s reasoning is flawed at a fundamental level. Bruce D. Collins (2010) explains in the article “Legal Fiction” that the Court changed the general use of corporate personhood. Collins details that corporations were originally granted legal personhood so they could be sued under contract law. Ultimately they are not “persons” – they don’t die, serve their country, vote, or serve on a jury. Carol Goforth (2010) further extends this

argument in “A Corporation Has No Soul” by explaining that corporations should not have the right to free speech. Justice Kennedy wrote in the Supreme Court’s opinion that there is “no support for the view that the First Amendment, as originally understood, would permit the suppression of political speech by media organizations.” However, as Goforth (2010) elaborates, Citizens United is not a media organization and thus requires a discussion of a corporation’s right to free speech instead of free press. Goforth writes that corporate decision makers involving a political donation do not necessarily follow the opinions of shareholders and cannot be considered legitimate representatives of shareholder interests. The Court holds that there is no distinction between types of speakers, saying, “The First Amendment does not permit Congress to make these categorical distinctions based on the corporate identity of the speaker and the content of the political speech,” (*Citizens United v FEC*, 2010), and therefore corporations should be granted free speech protection.

Citizens United

The *Citizens United* opinion can be best analyzed and understood by separating it into three main sections. The first section discusses the court's grounds for considering the precedent found in the case of *Austin v Michigan Chamber of Commerce* (1990). The Court in this case held that a Michigan act that prevented corporations from using general treasury funds to support or oppose a candidate was constitutionally valid. The second section explains the sections of *Austin* and *McConnell v. Federal Election Commission* (2003) that were overturned by *Citizens United*. The final section explains which parts of the BCRA are still in effect.

The main argument in the first section of the case held that *Citizens United* could not be decided on narrow grounds without harming political speech, and the Court would therefore have to consider the precedent found in *Austin*. The Bipartisan Campaign Reform Act (BCRA) had been previously challenged in 2003 in *McConnell v. Federal Election Commission* (2003). The *McConnell* decision largely upheld the BCRA restrictions on grounds found in *Austin v. Michigan Chamber of Commerce* (1990), which held that a speaker's corporate identity might serve as the basis to ban political speech. While corporations and labor unions may not use general treasury funds for electioneering communications, they may create a "separate segregated fund," or political action committee (PAC), in order to receive donations from stockholders, employees, members, etc. for the purpose of creating electioneering communications (2 U.S.C. §441b(b)(2), 2010).

In order to determine if *Citizens United* could be resolved on narrow grounds, the Supreme Court first examined whether the on-demand broadcast of *Hillary: The Movie* qualified as an electioneering communication. Since only one household would see an individual transmission as requested, Citizens United believed that its transmissions of the film did not

qualify as electioneering communications because 50,000 or more individuals would not see them. The Supreme Court reasoned, however, that because the transmission “[c]an be received by 50,000 or more persons” (§100.29(b)(3)(ii)), it meets the broadcast requirements of an electioneering communication.

The speech created by Citizens United also qualified as “express advocacy,” contrary to the organization’s argument. Speech qualifies as express advocacy if “[it] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate” (*Federal Elections Commission v. Wisconsin Right to Life*, 2007). *Hillary* may have been exempt from restrictions on speech had Citizens United refrained from using donations from for-profit corporations. The Supreme Court therefore found there is no way to create an exemption for this case without having to rewrite the precedent that Government can restrict corporate independent expenditures for political speech. For these reasons, the Court found ground to consider both *Austin* and *McConnell* and forgoes the option to determine if political speech may be banned on a case-by-case basis.

The second section of the case discusses why precedent found in the cases of *Austin* and *McConnell* was overruled. While the First Amendment states “Congress shall make no law... abridging the freedom of speech,” speech may be controlled or suppressed at various point in the speech process (*Citizens United v. FEC*, 2010). For example, while yelling “Fire!” in a crowded theatre is technically a form of “speech,” it is unprotected and suppressed due to safety reasons. However, BCRA did not control speech, but outright banned it. Justice Kennedy reasoned that the for-profit donation ban on political speech was burdensome, and the option to create a PAC did little to alleviate these issues (*Citizens United v. FEC*, 2010). PACs require a treasurer, all donations must be forwarded by the company to the treasurer promptly, detailed records of the

identities of persons making donations, receipts to be kept for three years, any changes be reported within 10 days, and monthly reports be filed with the Federal Election Commission. This places an extensive financial burden on corporations and labor unions that wish to participate in political speech, and “necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached” (*Buckley v. Valeo*, 1976). Justice Kennedy extended the court’s reasoning by arguing, “If §441b applied to individuals, no one would believe that it is merely a time, place, or manner restriction on speech. Its purpose and effect are to silence entities whose voices the Government deems to be suspect” (*Citizens United v. FEC*, 2010).

Political speech is believed to be a fundamental part of our society as a way to hold politicians accountable to the people and to permit all persons a voice. As such, any law that places a burden on political speech is “subject to strict scrutiny,” which is a test established by the Supreme Court and used to evaluate any regulation that focuses on a particular type of speech. In order to pass the test of strict scrutiny, the government must prove that the statute “furthers a compelling interest and is narrowly tailored to achieve that interest” (*Wisconsin Right to Life v. FEC*, 2007).

The speaker in this case is burdened solely because it is a corporation. In *First National Bank of Boston v. Bellotti* (1978), the Supreme Court found that “Corporations and other associations, like individuals, contribute to the ‘discussion, debate, and the dissemination of information and ideas’ that the First Amendment seeks to foster.” The *Bellotti* court ultimately found that a legislature may not determine the subjects about which a person may speak and the speakers who may address the public issue (*First National Bank of Boston v. Bellotti*, 1978).

The court in *Buckley v. Valeo* (1976) first brought up the notion that “the prevention of corruption and the appearance of corruption” may serve as a sufficient government interest for speech regulation. However, the court said that, “[t]he absence of prearrangement and coordination . . . alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate” (*Buckley v. Valeo*, 1976). A similar notion was created in *Austin*, where the court identified antidistortion as a legitimate government interest in order to prevent “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public’s support for the corporation’s political ideas” (*Austin v. Michigan Chamber of Commerce*, 1990).

The government relied on the antidistortion rationale in *Citizens United*, and the court found that it wasn’t well defended and would not support the BCRA restrictions. The Court reasoned that the antidistortion rationale would allow the government to ban political speech because the speaker is an association of individuals that have taken a corporate form, thus violating the protections of the First Amendment. Political speech, as held by the Supreme Court, is “indispensable to decision-making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual” (*First National Bank of Boston v. Bellotti*, 1978). The antidistortion rationale in *Austin* sought to prevent corporations from obtaining an unfair advantage in the political marketplace due to the large amount of money available. However *Buckley* had previously determined that First Amendment protections do not depend on the person’s financial ability to participate in the public discussion (*Citizens United v. FEC*, 2010).

In *Citizens United*, the court also discussed the possibility that the antidistortion rationale would provide Congress with the ability to ban political speech of media corporations. Media outlets have the ability to accumulate large amounts of money under the corporate umbrella. If the Supreme Court were to accept the government's antidistortion argument, speech from wealthy media corporations could be limited simply because they use a large amount of money to express view that often "have little or no correlation to the public's support" (*Austin v. Michigan Chamber of Commerce*, 1990). Media corporations are, however, exempt from BCRA restrictions in relation to political speech. The line between media and non-media corporations has become increasingly blurred, and the courts have not previously supported laws that attempt to distinguish media corporations from those that are not. Even if there were an accurate mechanism to determine who qualifies as a media corporation, the Supreme Court argued in *Citizens United* that allowing an exemption to exist for some corporations is unjust and limits speech of non-media corporations. Large corporations that own both media outlets and unrelated businesses would be able to "speak" when identical businesses that don't have access to media outlets would not be able to speak about the same issue. The Court appeared to use the original intent of the Framers of the Constitution and argued that "The Framers may have been unaware of certain types of speakers or forms of communication, but that does not mean that those speakers and media are entitled to less First Amendment protection than those types of speakers and media that provided the means of communicating political ideas when the Bill of Rights was adopted" (*Citizens United v FEC*, 2010).

The government extended the antidistortion argument in *Citizens United* by saying corporate political speech can be limited in order to prevent the appearance or existence of corruption. The Court in *Buckley* determined that the government's interest in preventing

corruption was not legitimate enough to support a ban on independent expenditures (*Buckley v. Valeo*, 1976). The *Buckley* court also argued that corruption does not exist unless expenditures are given in coordination with a candidate. Ultimately, the *Citizens United* court found that the provisions in the Bipartisan Campaign Reform Act were meant solely to prevent corporate speech, contrary to the protections found in the First Amendment.

III. Disclaimer and Disclosure requirements remain valid

The BCRA requires that televised electioneering communications funded by anyone other than a candidate for office must include a disclaimer meeting specified guidelines. Additionally, any person who spends more than \$10,000 on electioneering communications in a calendar year must file a disclosure meeting FEC guidelines (2 U.S.C. §434(f)(1) and §434(f)(2), 2010). *Citizens United* made three prominent arguments against these requirements in relation to its advertisements for *Hillary*.

First, *Citizens United* claimed that the government's interest in providing information to the electorate does not serve as justification for requiring disclaimers. Second, *Citizens United* held that since the ads only seek to convince individuals to see *Hillary*, an informational interest does not justify regulation. However, the Supreme Court found justification for these requirements in *Bellotti*, *McConnell*, and *Buckley*, and argued that the disclaimers provide the electorate with information required to evaluate the arguments presented in the ads and prevent confusion over who paid for the ad (*Citizens United v. FEC*, 2010). The Court also found that precedent from *Buckley v. Valeo* and *United States v. Harriss* constitutionally allows disclosure requirements for independent expenditures and on lobbyists (*Citizens United v. FEC*, 2010). Following this line of reasoning, the court found both these arguments invalid in favor of providing information to the electorate.

Finally, Citizens United argued that disclosure requirements could reduce the number of donations due to fear from retaliation. The *McConnell* court found that disclosure requirements could be unconstitutional if there were a reasonable probability that individuals would face threats, harassment, or other forms of retaliation. However Citizens United did not provide evidence that such retaliation might occur. The Court also reasoned that disclosure requirements would hold corporations and elected officials accountable to their shareholders and represented citizens. The transparency provided by the disclaimer and disclosure requirements allows citizens and shareholders to properly evaluate and react to different speakers and the messages they provide.

Impacts

Perhaps the most noticeable impacts from *Citizens United* can be seen today. The decision gave rise to the “super PACs” that have been shown (arguably) to make or break a campaign in numerous state primaries. These “super PACs” were granted the ability to receive unlimited amounts of money from individuals in the case *SpeechNow.org v. FEC* (2010). From the more seriously named, such as Restore Our Future (The Center for Responsive Politics, 2012), to the more comical, such as The Definitely Not Coordinated with Stephen Colbert Super PAC (Hopper, 2012), we have already begun to see the impacts a super PAC can have on an election.

These impacts can be seen in the current Republican race for the presidential nomination, particularly in the primaries held in Iowa, New Hampshire, and South Carolina. By January 26, 2012, 296 organizations classified as super PACs reported receiving over \$32 million in donations and spending almost \$41 million in the 2012 election cycle (Center for Responsible Politics, 2012). “The Super PACs are outspending the candidate committees two to one at this point in time,” said Randy Cable, host of the South Carolina radio station WORD (Hopper, 2012). “The ones that are buying the most [air time] are going to have the biggest impact. You know, just like in the world of business and advertising, politics goes the same way. Those that spend the most have the biggest impact” (Hopper, 2012). However, those that spend the most might be a very small number of individuals. Super PAC spending essentially creates a microphone for the few individuals who donate to the organization.

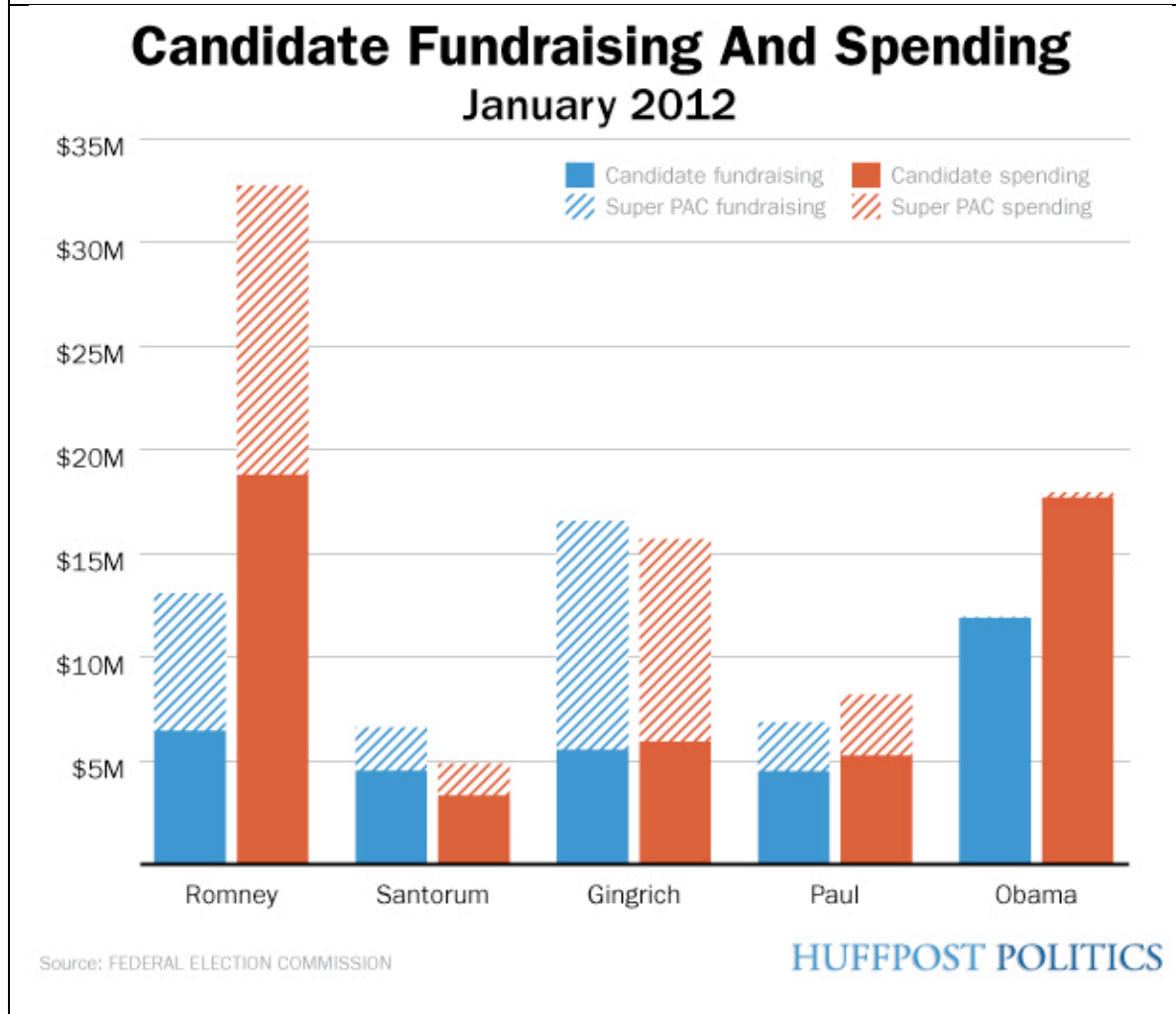
We have entered a new era of politics, where the support of super PACs is necessary to make one’s name known and survive the election process. “It would be stupid to be in the 2012 campaign or want your voice heard in the 2012 campaign and not have a Super PAC,” said

Stephen Colbert. “I mean, the RNC, the DNC, those organizations really don’t mean much anymore. Karl Rove has more money than the RNC” (Hopper, 2012).

Political candidates, for fear of gaining a negative image will sometime shy away from running negative ads against other candidates. However, super PACs don’t have that problem because they don’t coordinate with a candidate’s campaign. This point has been a point of contention among some analysts, who cite that “super PACs can legally be set up by a close friend and associate of the candidate, they are by no means independent in any meaningful sense of that word,” according to Paul Ryan, associate legal counsel at the Campaign Legal Center, a nonprofit, nonpartisan organization that offers analysis of issues and represents the public interest in a variety of proceedings (Goldstein, 2012). While a super PAC’s independence may be in question, Ellen Weintraub, a member of the Federal Election Commission, points out that PACs don’t have a reputation to maintain and can act more freely than candidates (Hopper, 2012). Ultimately candidates can distance themselves in order to maintain their image, but still benefit from the effects of negative super PAC ads.

The chart below shows the difference between the amount of money accepted and spent by PACs and candidates in January 2012 (Blumenthal, 2012, January 21). For most candidates, PAC fundraising greatly exceeds the amount raised by the candidate. Additionally, as shown below, PACs spend more in relation to the election when compared to any other candidate.

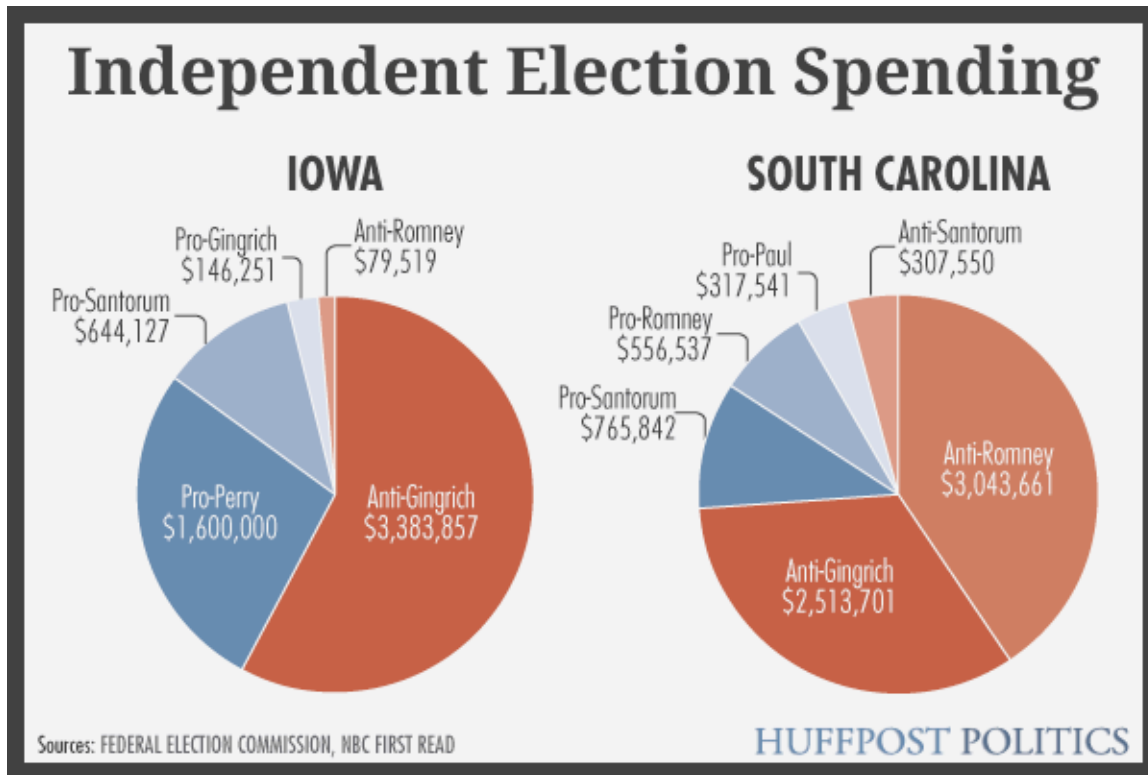
Chart 1: Differences Between Candidate and PAC Fundraising and Spending



Many, including candidates themselves, have called for super PACs to limit their spending and negative ads. Romney, who has arguably benefitted greatly from super PAC spending, said in a nationally televised debate that super PACs are “outrageous” and that we should, “Let people make contributions they want to make to campaigns. Let campaigns take responsibility for their own words and not have this strange situation where we have people out there who support us, who run ads we don’t like” (Fouhy, 2012). After the Iowa caucuses, Newt Gingrich said that, “We’re now entering a world where until the laws are changed, every serious campaign will have one or more Super PACs. They will spend an absurd amount of money and it

will virtually all be negative. That’s a fact. Given the playing field right now, you have no choice” (Hopper, 2012). As shown in the chart below, the vast majority of independent spending by super PACs has been negative coverage of candidates (Blumenthal, 2012, January 20).

Chart 2: PAC Spending in Iowa and South Carolina Primaries



Some political analysts have said that a negative ad campaign run by the Romney-leaning Restore Our Future super PAC, which received almost \$37 million in donations by January 31, 2012 (the only deadline to file disclosure requirements prior to the publication of this paper), severely impacted Newt Gingrich’s campaign (*Super PACs*, 2012). Gingrich, who had mostly run a positive campaign and ultimately finished fourth in the Iowa caucuses, said, “We learned in Iowa, if you unilaterally disarm, you might as well not run. If you allow other candidates to have a scorched earth, multimillion dollar ad campaign and there’s nothing that responds, they simply,

by constant defamation drive you down” (Hopper, 2012). Even with the condemnation of this negative activity, super PACs have been playing a game of sorts, launching negative ads at each other when the cash flow allows. Winning Our Future, a super PAC in support of Gingrich, received \$5 million dollars prior to the primary in South Carolina, and roughly \$13 million before February 2012, which allowed the organization to place numerous anti-Romney ads prior to some key caucuses and primaries (*Super PACs*, 2012). The PAC’s actions are attributed with helping Gingrich get the win in South Carolina, similar to Restore Our Future’s effect on his campaign in Iowa, and it received another \$5 million dollars after the primary in order to carry that momentum and foster a pro-Gingrich message in the Florida primary (Confessore, 2012). These figures illustrate the large impact negative ads can have on an election. More money equals more ads, and more ads mean a greater chance of helping a candidate win.

While the effects of *Citizens United* have largely been seen in a negative light, there is at least one benefit the public gained from the decision. The disclosure requirements found in BCRA remain intact, and these bring a large amount of transparency to political spending we didn’t have before. Negative campaign ads are certainly nothing new. In recent political history, nonprofit organizations have been credited with publishing issue ads (which simply advocate for a position or candidate) during the 2000s (Caramanica, 2012). In the 2000 election, the nonprofit group Republican for Clean Air ran millions of dollars worth of ads touting George W. Bush’s “exemplary environmental record” in key primary states (Caramanica, 2012). These ads have been credited with assisting Bush in defeating John McCain during the primary election, similar to the effect Restore Our Future has had in supporting Mitt Romney during the 2012 election cycle. The difference between then and now, however, is that the media and the public are paying more attention to where these ads are coming from. While super PACs can still accept

money from nonprofit entities that aren't required to disclose their donors and disclosure isn't required until after a substantial amount of campaigning has occurred, *Citizens United* has shifted a critical eye on the subject of campaign finance.

The Colbert Effect

Some of the issues individuals may have with super PACs, such as the ability to amass large amounts of money, the potential for coordination, and the lack of transparency, can be difficult for members of the general population to follow. However, the inner workings of super PACs have recently been brought under comedic light in 2011-2012 thanks to comedian Stephen Colbert. In June 2011, Colbert received permission from the FEC to create his own super PAC, named Americans For a Better Tomorrow, Tomorrow (ABTT). On January 12, 2012, Colbert proclaimed he wished to explore the possibility of running for “President of the United States of South Carolina.” This required him to transfer control of ABTT to someone else. Prior to making his announcement, he gave ABTT to comedian Jon Stewart, who promptly re-nicknamed it “The Definitely Not Coordinating with Stephen Colbert Super PAC.” (Americans for a Better Tomorrow, Tomorrow, 2012)

These actions have led many to wonder why Colbert would seemingly make a mockery of our system, while others have heralded it as a comedic exposure of what super PACs can and cannot do. Richard Briffault, professor at Columbia Law School, said that while Colbert’s actions ultimately perform a good by bringing the issue to a wider audience, “...it’s a pretty serious matter. It’s not a joke” (Riley, 2012). Donna Hoffman, head of the political science department at the University of Northern Iowa, touted Colbert’s moves as an attractive way to bring the issue to attention: “Because campaign financing is very complex, and it’s very difficult to understand. It’s not a burning issue for most people. But when a comedian brings it to people’s attention in this way and makes a joke of it, but yet there’s a serious aspect to it, I think that’s useful for educational purposes in some ways, and people’s attention is drawn to that” (Ta, 2012).

With all the media attention Colbert has received because of his super PAC, it can be easy to get lost in determining exactly what Colbert is doing. He told a crowd on the day he received permission from the FEC to start ABTT that “There will be others who say ‘Stephen Colbert, what will you do with that unrestricted super PAC money?’ To which I will say, I don’t know. Give it to me and let’s find out” (Riley, 2012). From its creation in mid-2011 to January 31, 2012, ABTT was able to raise \$1,044,615 (*Super PACs*, 2012). So far, Colbert has been able to expose the ease with which a super PAC can be created and transferred from one owner to another, and perhaps most importantly, how super PACs may use the money they receive.

On his show aired January 16, 2012, Jon Stewart demonstrated two issues with the use of money within a super PAC. The first is that it is legal to spend the money on things that have nothing to do with a political candidate or a campaign, as demonstrated by the bejeweled crown Stewart wore at the beginning of the show (Stewart, 2012). The second issue is that while a candidate may not directly coordinate with a super PAC, he can speak publicly about what he would like to see the super PAC do. Candidates, notably Gingrich and Romney, have used this tactic to speak out and let the public know which ads they don’t care for (McGlynn, 2012).

Trevor Potter, former chairman of the FEC, general counsel to John McCain in the 2008 presidential race, and Colbert’s own attorney for this endeavor may best describe Colbert’s actions. Potter explains while he doesn’t know what Colbert is thinking, Colbert is “illustrating how the system works by using it. By starting a super PAC, creating a (c)4, filing with the F.E.C., he can bring the audience inside the system. He can show them how it works and then leave them to conclude whether this is how it ought to work” (McGrath, 2012). Whether we attribute ABTT to a joke or a brilliant comedic commentary on the power of super PACs, Colbert has brought the issue to light for many Americans who otherwise wouldn’t care.

Knowledge of the issue is the only way the general public will be able to determine if super PACs that exist the way they should.

Conclusion

It is still difficult to determine just how *Citizens United* will shape our national politics and, ultimately, our country. Legally, the Supreme Court brought restrictions on corporate political spending back to a level set in the 1970s. It was a decision based on history and the First Amendment right of citizens to use money to “speak.” If a corporation is made of people, then, the court reasoned, those people should be able to use their money to speak however they wish. In exchange, they must disclose their donors so the general population can determine the history and political positions of those running campaign ads. We have seen evidence that super PACs can now sway an election simply because they can run more ads. More in-depth research would be needed to determine the effectiveness of these ads. However, this is not the most important impact from the *Citizens United* decision. The decision reignited the debate over who can run political ads and how much money they can spend. In turn, *Citizens United* has provided an opportunity to learn about an issue that previously flew under the radar. More members of the voting population can become aware of who is funding political ads and what those ads seek to do. We can be protected from vast corporate political spending because we are at a time when knowledge, interest, and criticism about corporate involvement in politics are more under the microscope than ever before.

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Biography

Stephanie Lewis was born in Salt Lake City, Utah. She was a member of the National Forensic League and National Honor Society while attending Judge Memorial Catholic High School and obtained the honor of National Forensic League All-American. She graduated from high school in May 2009 and came to Utah State University. Stephanie majored in Public Relations/Corporate Communication and Law and Constitutional Studies. She also competed for the USU debate team and was a member of USU chorale for two years. She is expected to graduate in May 2012 and will be attending the S.J. Quinney College of Law in the fall at the University of Utah as a member of the Class of 2015.