Information Gathering Final Essay: Campaign Finance In the United States and Potential Campaign Finance Reforms

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Preface

I guess I'll begin with the thank-you's. First my professors. Through my struggles through this class over the years, Dr. Susan Barnes Whyte and Dr. Brad Thompson have been impeccable professors. Despite all my chicanery, they always said I could do it, they always said they were going to get me through this class, and they did. Next, my advisor and mentor, Dr. Michael Huntsberger. Dr. Huntsberger is often my biggest supporter and I know I would not be here today writing this if it was not for him. I also want to thank my parents and my friends, who always supported me and believed in me. I suppose that's what a good parent, and a good friend, does. My friends never made me feel judged or stupid for my struggles through information gathering and always were excited for my achievements and listened to me talk about my failures. I'd like to thank my interviewees for this project, Kate Titus, director of the Campaign Law Center Oregon, Dr. Dimitri Kelly, professor of political science at Linfield College, Rob Davis, a terrific investigative reporter for The Oregonian who first reported on the massive campaign finance issues in Oregon, Oregon state Rep. Ron Noble of McMinnville and state Sen. Jeff Golden of Ashland. I would also like to thank both of the congressmen's' staffs, who were incredibly friendly and helpful in setting up my interviews. All of my interviewees were incredibly intelligent and well-informed on the issue and provided terrific content for my research. As far as reflections go… I honestly have nothing else to say at this point. I'm gonna sign off now. Peace.

Abstract

This paper examines and explains the issues surrounding money in U.S. politics, specifically campaign finance and potential campaign finance reforms. The history of campaign finance reform in America is long and complicated. There have been countless scandals over the years and countless attempted reforms that have fallen short. In recent years the increase of internet fundraising and the 2010 Citizens United v. FEC Supreme Court ruling have completely shaken up campaign finance for the last decade, but increased awareness by Americans and a focus on small-donor fundraising by politicians show that there are signs of progress toward a clean and more stable election system. There are many negative effects of money in politics such as corruption, mismanaged time, lack of transparency and an imbalanced political power structure. There are a few points against campaign finance reform. Several different reform ideas are offered and discussed.

Introduction

Through America's long and at times tumultuous political history there has always been a money trail. For nearly as long as political systems have existed in America money has been a key part of politics. One of the first recorded examples of this took place in 1758 when a young politician by the name of George Washington, running for election to the Virginia House of Burgesses, had his campaign manager spend their entire campaign budget of 50 pounds on 160 gallons of liquor served to 391 voters right at the polling station (National Constitution Center, 2012). Washington won the election with 39 percent of the vote and went on to have a successful career in early United States politics.

But over the next 150 years, and further into America's history, the influence of money on U.S. elections became much more powerful and malicious than a party on Election Day for a Colonial America general assembly campaign. From scandals during the 1904 presidential election that led to the U.S.'s first major campaign finance reforms, to Watergate and Buckley v. Valeo (1976), to the Citizens United v. FEC ruling in 2010, to the historically expensive 2016 presidential election (Federal Election Commission, 2017), to countless local and state elections from across the country that have been controlled by outside forces, the almighty dollar has been intertwined throughout U.S. political history.

This influence has created many issues in the American political system. It has created corruption, a lack of transparency toward U.S. citizens, countless hours spent by politicians fundraising for their next campaigns instead of actually governing, a lack of diversity among elected officials and an imbalanced power structure where it is much easier for high-income Americans to become involved in politics than middle- and low-income Americans. It has also led to countless other problems throughout the country that do not exist on the campaign trail or in statehouses. Many Americans realize these issues and see that the influence of money on the political system is a major problem (Hensel, 2016). For years there have been calls for reform to the way U.S. elections are funded. And yet time and time again politicians on both sides of the aisle acknowledge, but eventually dismiss these cries, despite the popular appeal (Yablon, 2017).

Without reform these problems will not be solved. And in recent history they have only gotten worse. The 2018 congressional midterm elections were the most expensive in history (Schouten, 2018). The total expenditures in the 2016 presidential election were higher than any in history, but that sum is expected to be shattered during the 2020 race (Garver, 2018). Corporations, unions and wealthy individuals will likely never stop spending money to benefit their agendas and most politicians will likely never stop accepting that money to keep themselves in office.

This paper asks the question "how should the financing of U.S. federal and state elections be reformed?" It begins by examining the background and history of campaign finance as well as the contemporary landscape of money in American politics. It will discuss the negative effects that money in politics has on the political system and the country, with a focus on the numerous campaign finance problems in Oregon. Counterarguments against campaign finance reform will be made. Ideas for potential reforms will then be offered and this paper will look to the future of money in American politics. Finally, this paper will conclude that campaign finance reform is necessary and that the best potential reforms to be implemented would be implementing stricter disclosure laws and implementing a small-donor matching fundraising system for federal elections.

History and Contemporary Landscape of Campaign Finance in the U.S.

History and Background of Campaign Finance in the U.S.

One of the first notable cases of money in American campaigns may be Washington and his first successful campaign but many other developments have occurred throughout the country's history that have shaped the landscape of campaign finance. Often change has come following major scandal. In 1904 New York Life Insurance gave $48,707.50 to the Republican National Committee to be used for various campaigns. In the same election cycle President Theodore Roosevelt had railroad executive E.H. Harriman raise $250,000 for Roosevelt's reelection campaign. The public was scandalized by this and demanded change. Change actually did happen, as Congress would pass two laws in the following years that were the first major campaign finance reforms in the history of the U.S. The first was the Tillman Act (1907), barring corporate contributions in elections. The second was the Federal Corrupt Practices Act (1910), which required the disclosure of where campaign funds come from (Berman, 2014).

Skipping ahead 60 years, the 1970s would bring forth arguably the most notable scandal in the history of political scandals: Watergate. Following Watergate would be the strengthening of the Federal Election Campaign Act (FECA). First passed in 1971 to institute more stringent disclosure laws, Congress amended it in 1974 to put limits on campaign contributions by individuals, political parties and Political Action Committees (PACs). This amendment also founded the Federal Election Commission, the independent government regulatory agency intended to enforce campaign finance laws in federal elections. But in 1976 FECA would be essentially dismantled following the U.S. Supreme Court ruling in Buckley v. Valeo. The Court determined that any limiting of election spending was unconstitutional as a violation of the free speech clause of the First Amendment. It also limited the disclosure laws put in place by FECA and was the first of many political actions that would weaken the FEC over the next 4 decades (Brown, 2016).

In 2002 campaign finance was once again in the forefront of public consciousness due to several campaign finance scandals in the early 2000s along with the Enron scandal and Enron executives' ties to the President George W. Bush administration. Then-Sens. Russ Feingold, D-Wis., and John McCain, R-Ariz., addressed this by proposing and eventually passing the Bipartisan Campaign Finance Reform Act of 2002. The law decreased the role of "soft money," or contributions made to a political party or PAC instead of going directly to a candidate, by placing limits on these types of donations made by national parties and special interest groups. It also prohibited political advertisements within 30 days before a primary election and 60 days before a general election that are paid by corporations or unions funds. These provisions of the bill, like many others, would later be overturned by the 2010 Supreme Court ruling in Citizens United v. FEC (2010) (Post, 2014).

Contemporary Landscape of Campaign Finance in U.S. Politics

The Bipartisan Campaign Reform Act kept things stable for a small window of time, but the campaign finance world was shaken up again in the 2008 presidential election. Democratic candidate Barack Obama decline federal funding and pioneered a broad grassroots movement and new method of fundraising by using the internet to raise funds from small-dollar donations through mobilizing grassroots workers in every state. Obama set the record for the most money raised in a day when he raised $10 million in September 2008, all raised through the internet. In total Obama's campaign would raise $778,642,962 in campaign funds. This sum was nearly $400 million more than was raised by his opponent, McCain (D. Kelly, 2019).

The campaign finance world was once again disrupted in 2010 following the Supreme Court ruling in the landmark case Citizens United v. FEC. Citizens United has had arguably more impact on campaign funding, and arguably is more controversial, than any other campaign finance reform implemented through American history. The ruling eliminated all and any bans on corporate and union spending and held that under the free speech clause of the First Amendment the government is prohibited from restricting independent expenditures for advertisements and communication costs made by corporations, non-profit groups, unions and other associations (La Raja & Schaffner, 2013). In the campaign cycles since the Citizens United ruling there has been an unprecedented amount of money spent on elections. One reason was in part because the ruling led to the rise of super-PACs. These are PACs that may not make contributions to candidate campaigns or political parties but may engage in unlimited spending independent from the campaign and unlike traditional PACs can raise funds from individuals, corporations and unions without any legal limit on contribution size. It also gave rise to "dark money" groups. These are politically active nonprofits that can receive unlimited individual, corporate and union donations that do not need to be publicly disclosed. Largely in part to these groups spending by organizations with undisclosed donors went from less than $5.2 million in the 2006 midterm elections to more than $174 million in the 2014 midterms (Mayersohn, 2014).

In the years since the Citizens United ruling developments in campaign finance have evolved rapidly. 2016 saw the most expensive presidential campaign in history as presidential candidates raised a total of over $1.5 billion dollars during the 2016 election cycle (Federal Election Commission, 2017). 2016 also saw Sen. Bernie Sanders, I-Vt., expand and capitalize upon the internet-based, small-dollar donation model that Obama had used in 2008 and again for reelection in 2012. Despite not securing the Democratic Party's nomination Sanders had enormous fundraising success through this practice. Many congressional candidates used the same or similar methods to fundraise for their campaigns in the 2018 midterm elections. (D. Kelly, 2019). But even with this increase in small-dollar donations 2018 (Shorey & Lee, 2018) saw the most expensive midterms in history with total expenditures exceeding $5 billion (Schouten, 2018). The eye-popping prices that now come with an election are not expected to slow down any time soon as the 2020 presidential race is expected to top 2016's as the most expensive in history (Garver, 2018).

But with this enormous increase in spending the American public has begun to take notice. Today many U.S. citizens believe campaign finance reform is necessary. In a 2018 poll by the Pew Research Center 77 percent of the public supported limits on the amount of money individuals and organizations can spend on political campaigns and 65 percent said that new campaign finance laws could be written that would be effective in reducing the role of money in politics (Jones, 2018). As this issue moves more to the forefront of the political discussion it can be assumed that even more of the public will be in favor of campaign finance reform. A study by Jorgensen, Song and Jones (2017) suggests that when people become more informed about campaign finance reforms the more they are in favor of reform. This study concluded that as an awareness in of campaign finance increases and particular narratives become more public an increase in support can be expected for public financing, free media time and public matching funds.

And politicians have finally started to take notice of this public outcry, particularly within the Democratic Party, who have made campaign finance reform one of the key parts of their platform with the recent proposal of The For The People Act, a major election reform bill with a large section on campaign finance reform (Blumenthal, 2019a). The bill passed the Democratic-controlled House of Representatives but was essentially dead on arrival in the Republican-controlled Senate under the leadership of Senate Majority Leader Mitch McConnell, R-Ky., who is a vocal opponent of campaign finance reform (Hemingway, 2019). There has also been a major trend among all the early candidates for the 2020 Democratic presidential nomination of swearing off corporate donations and focusing on raising money through online, small-dollar donations from thousands of supporters (Krishan, 2019.) The swearing off of corporate donations began with Sen. Elizabeth Warren, D-Mass., and many commentators saw it as a weak move that could limit her overall spending totals and significantly put her behind her opponents (Korecki & Severns, 2019). But many of her fellow Democratic candidates have followed suit and the trend of focusing on small-dollar donations has even spread to the Republican Party as congressional candidates have begun to campaign for 2020 as well (Arkin, 2019). By both promoting The For The People Act and focusing on small-dollar donations and limiting corporate money the Democratic Party is showing that they are prepared to implement reforms should they get the opportunity to in the near future.

Negative Effects of Money in Politics

There are many issues that have manifested due to the outsized influence of money in American politics. The most common is the risk of corruption and politicians not acting in the best interest of their constituencies. When corporations, unions and wealthy individuals make donations to politicians they often expect something in return. Although this is not usually explicitly demonstrated to the point of unabashed bribery these politicians may protect their donors when making policy decisions that affect those donors even if the politician is not acting in the best interest of their constituents (Brown, 2016). An example of this was several finance and securities companies greatly increased their political donations in between the 2014 and 2018 election cycles. During this time many parts of the finance and securities industry was opposing a new Department of Labor regulation for their industry. The majority of the donations made were to Republican candidates (which deviated from the industry standard of roughly a 50-

50 split in contributions to both parties). Much of the money was directed toward supporting the reelection of Rep. Ann Wagner, R-Mo., who wrote legislation intended to kill the Department of Labor rule (B. Kelly, 2019).

A second issue is a lack of transparency. With the increase of dark money and super-PAC spending post-Citizens United Americans do not know who is paying to elect politicians (Mayersohn, 2014). Another issue is that fundraising from wealthy donors takes up a huge amount of a politician's time. Candidates often spend hours at fundraising events with wealthy potential donors or locked in an office with a phone and a call sheet contacting those potential donors. If this candidate is an incumbent this is an extraordinary amount of time spent not governing. Even if a candidate is not an incumbent, these practices force candidates to focus on the needs of wealthy voters and do not spend much time with middle- and low-income voters (Blumenthal, 2013).

Still another issue is that the amount of money in the American political system has created an imbalance of power among elected officials. Because of the high cost of these elections many people who decide to run for office have wealthy donor networks or have ways to finance at least parts of their campaigns themselves. But a low-income individual is much less-likely to be able to become involved in politics because they do not have the same resources or connections. This has led to massive underrepresentation of minorities, women and working-class individuals in elected positions (Carnes, 2018).

Campaign Finance Issues in Oregon

There are few states in the union that feel the effects of an outsized influence of money in the political system more than Oregon. Oregon has some of the weakest campaign finance laws and regulations in the country and over the last several decades has become utterly corrupted by corporate money influence. Like federal donations and the U.S. Constitution, the First Amendment in the state constitution prohibits limits on campaign contributions. Oregon is one of just 5 states with no campaign contribution limits. Despite being the 27th most populous state Oregon ranks sixth in total corporate money given to state lawmakers. More corporate money is given in political contributions to Oregon than any other state per capita (Davis, 2019b).

The cost of an Oregon election is incredible compared to other states. In 2016 the average cost of winning a race for a seat in the Oregon House of Representatives hit $243,555. That's equal to the cost of two races in Washington, six in Minnesota or 244 in New Hampshire (Davis, 2019a). Rep. Ron Noble, R-McMinnville, said in his interview that when he first entered Oregon politics he was shocked at how much money it took to win an election. In his first campaign for the House the total spent on the race, between his campaign, his opponents and third-party spending, was over $1.5 million. Noble's district is home to only 67,000 constituents (Noble, 2019).

The biggest negative effects from all this money in the Oregon political system have been on the environment. Lauded as a one of the greenest and most eco-friendly states in the U.S. Oregon has started to see unfortunate changes that can be linked to these political donations. Due to exorbitant contributions by the logging, railroad, energy and construction industries Oregon's forests resources are beginning to dwindle, species vital to the region's ecosystem are becoming at-risk and endangered, and air quality, particularly in the major-metropolitan area surrounding Portland and in small industrial communities like The Dalles, has gotten so bad that it has begun to lead to health issues for Oregonians. Unfortunately, corporate donors in the state have been able to bully and bribe lawmakers into deregulating the state by weakening regulatory agencies for both environmental protection and ethical campaigns so little has been done to curb these negative environmental impacts.

The good news for Oregon though is that major reform seems to be on the horizon. At the beginning of the 2019 legislative session Democratic Gov. Kate Brown made it clear that she wants campaign finance reform to be a priority and created the Senate Committee for Campaign Finance, the first the state has ever had (Dake, 2019). Across the state reform is becoming a more and more popular idea. Beginning in 2020, local elections in Portland will be funded on a publicly-funded small-dollar donation matching program (Titus, 2019). The Senate committee has been working through many different potential reforms but unfortunately are limited in actual actions they can take because of the First Amendment (Oregon Senate Committee on Campaign Finance meeting, 2019). So that's where the committee decided to start. The number one measure that the committee is trying to pass is a ballot measure that would allow the Oregon voters to determine whether or not the Legislature can propose an amendment to the state constitution that allows the Legislative Assembly to enact laws regulating use of money in political campaigns (Golden, 2019).

Arguments Against Campaign Finance Reform

As established earlier in this paper, much of the American people are in favor of campaign finance reform. Despite this there are those who believe that the campaign finance system is fine the way it is. There is a case to be made that the Citizens United ruling has not had as much of an impact as some anticipated. In the wake of the ruling La Raja and Schaffner (2014) set out to try and predict the impact that the Citizens United decision would have in upcoming elections. Their study focuses on whether corporate and union spending bans generate electoral outcomes that are noticeably different from the outcomes in states that lack these types of spending bans. La Raja and Schaffner ended up concluding that these bans have little or no impact on state elections. They do note though that their research and results are somewhat limited because campaign finance dynamics at the state level may not be parallel the dynamics within the federal government. At the federal level some were concerned that this system would hand elections to whichever side spent more. But in the 2012 presidential election, the first following the Citizens United ruling, President Barack Obama was the largest target of outside spending and liberal outside groups were significantly outspent by conservative groups. But Obama ended up being elected to a second term and the Democrats ended up gaining seats in both houses of Congress (Mayersohn, 2014).

Potential Reforms

There are many different ways the U.S. campaign finance system could be reformed. Currently the Democratic Party is trying to implement those reforms through The For The People Act. The For The People Act offers multiple major reforms but most notably a provision that would determine that the Citizens United ruling is detrimental to democracy and would call for a Constitutional amendment to correct this. The bill also proposes reforms like implementing a publicly financed small-dollar donation matching system for both congressional campaigns and presidential campaigns, restructuring the FEC, banning foreign money and disclosing dark money (Democracy Reform Task Force, 2019).

Of these the most effective and realistic reforms to implement would be the small-dollar donation matching system, banning foreign money and disclosing dark money. Although it is true that major reform likely cannot be implemented without a Constitutional amendment to overturn Citizens United this is also an incredibly difficult and long process that would likely be a waste of time and energy (D. Kelly, 2019). Instead lawmakers should focus on implementing simpler and more mass-appeal reforms. Many Americans believe that there should be greater transparency around campaign contributions (Hensel, 2016). Although placing limits on contributions in considered unconstitutional, there is not unconstitutional about requiring the disclosure of dark money. The For The People Act proposes requiring super-PACs and political nonprofits to disclose donors giving more than $10,000. This would be a strong start but ideally reform reaches a point where there are no dark money groups whatsoever. Banning foreign money would also have mass appeal and not be difficult to implement. The publicly financed small-dollar donation matching program is a reform that has documented success. The proposed program is based on similar systems used in city elections in major metropolitan areas like New York City, San Francisco, Miami-Dade County and Seattle. Although there would obviously have to be major differences on the federal level

Conclusion

It is clear that the campaign finance system in U.S. politics is broken. Decades of corporate and political greed have now culminated into a system of secrecy and outsized influence. This broken system has led to countless other issues across the country. The most effective reforms to implement would be publicly financed small-dollar donation matching programs, banning foreign money and requiring more stringent disclosure. The good news is that these reforms, among others, exist in the not-so-far future. With growing concern and outcry among Americans about who is really determining their elected officials and politicians recognizing these concerns a push for campaign finance reform is realistic in the next decade. It won’t be easy, as corporations will do everything in their power to keep control of the U.S. electoral system, but if the American people can come together and make conscious decisions, clean and fair elections can be more than an American dream.

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