

The Citizens United Case - A Catalyst for Corporate Influence in Federal Politics

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Introduction

In *Citizens United v. Federal Election Commission* (2010), the Supreme Court of the United States held in a 5-4 ruling held that corporations and other outside groups can spend unlimited money to finance elections.¹ The case was anchored on the backdrop of a documentary released by Citizens United advocating for Hillary Clinton's presidential candidacy in the 2008 elections. The FEC deemed the film to be electioneering communication that was subject to the regulations imposed by the Bipartisan Campaign Reform Act (BCRA) of 2002, which effectively prohibited "any funds for soft money accounts from being solicited, received, directed, transferred, or spent in the name of the national political parties, Federal candidates, or officials..."² In this regard, Citizens United ought to have disclosed its funding sources to distribute the film, as per the provisions of the Act. In an attempt to protect free speech as enshrined in the First Amendment, the Supreme Court ruled in favor of Citizens United.³ In the majority opinion written by Justice Anthony M. Kennedy, the Court argued that the restrictions imposed within the BCRA are unconstitutional, asserting that political spending is a form of expression that cannot be curtailed by government.⁴ Regrettably, this decision had unintended consequences. It altered the relationship between money and politics, paving the way for increased corporate influence in federal elections and policy making. Today, big money lobbyists can wield substantial power to influence and shape legislative agendas within congress and even sway political outcomes.

¹ *Citizens United v Federal Election Commission* (2010) 558 US 310 (United States Supreme Court).

² Bipartisan Campaign Reform Act (BCRA) 2002.

³ *Citizens United v Federal Election Commission* (2010) 558 US 310 (United States Supreme Court).

⁴ Ibid.

The Rise of Corporate Influence

Since the ruling, federal politics has been exposed to corporate influence and big money lobbyists. Companies and special interest groups have capitalized on the new-found freedom to pour huge amounts of money into the country's political scene with vested interests. Enabled by the Supreme Court ruling, Political Action Committees (PACs) have now become vehicles for unlimited and unchecked political spending, which allows wealthy donors and companies to sway elections and shape the legislative agenda.⁵ In the United States, there is no doubt that the top spending candidates win in elections.⁶ The 2020 elections was the most expensive one in history with a record-breaking spending of \$14.4 billion shillings, double of what was used in 2016 election cycle.⁷ To this effect, there is no doubt that there has been a proliferation of undisclosed funds, which is funneled through non-profit organizations under the guise of donations, to undermine transparency and accountability in the political process. Today, tech giants such as Google, Facebook, and Amazon contribute significant sums to political candidates that would advocate for policies favorable to their industry. For example, Amazon.com contributed \$1,307,500 to federal candidates in the previous election cycle to finance campaigns for different Senators and Members of the House of Representatives.⁸ Such contributions are often given so that the candidates, once in office, can pass relaxed regulations on data privacy or intellectual property rights to favor the operations of their businesses. Likewise, big pharma

⁵ Pranav Goel and others, 'Donor Activity Is Associated with US Legislators' Attention to Political Issues' (2023) 18 PLOS ONE.

⁶ Steven Sprick Schuster, 'Does Campaign Spending Affect Election Outcomes? New Evidence from Transaction-Level Disbursement Data' (2020) 82 The Journal of Politics.

⁷ Karl Evers-Hillstrom, 'Most Expensive Ever: 2020 Election Cost \$14.4 Billion' (OpenSecrets 11 February 2021) <https://www.opensecrets.org/news/2021/02/2020-cycle-cost-14p4-billion-doubling-16/>

⁸ 'Amazon.com PAC Contributions to Federal Candidates' (OpenSecrets) <https://www.opensecrets.org/political-action-committees-pacs/amazon-com/C00360354/candidate-recipients/2020>

companies such as Pfizer and Johnson & Johnson are also major players in campaign financing.⁹ They primarily back candidates who oppose drug price regulations and support patent protections, particularly the conservative Republicans.¹⁰ Furthermore, Wall Street players such as major investment banks like Goldman Sachs and JPMorgan Chase, are significant contributors to political campaigns.¹¹ They often tend to support candidates who advocate for deregulation of the financial industry and lower corporate taxes, and a good example is Mitt Romney in the 2012 election cycle. Players in the financial sector raised \$37.1 million to back Romney's presidential bid, unlike Obama, who only managed to raise \$4.8 million from the sector due to his unfavorable financial policies.¹² Oil, gas, and coal companies are also known for their involvement in campaign financing, particularly in supporting candidates who oppose environmental regulations and promote fossil fuel development.¹³ Companies such as ExxonMobil and Chevron have previously funded Republican candidates such as President Trump who advocated for energy independence through fossil fuel development, collectively raising up to \$107 million for his presidential bid.¹⁴ Therefore, there is no doubt that the Supreme Court ruling in *Citizens United v. Federal Election Commission* (2010) opened a door for

⁹ Olivier J Wouters, 'Lobbying Expenditures and Campaign Contributions by the Pharmaceutical and Health Product Industry in the United States, 1999-2018' (2020) 180 JAMA Internal Medicine.

¹⁰ Olivier J Wouters, 'Lobbying Expenditures and Campaign Contributions by the Pharmaceutical and Health Product Industry in the United States, 1999-2018' (2020) 180 JAMA Internal Medicine.

¹¹ Matt Phillips, 'The Second Worst Trade of 2012: Wall Street's Terrible Election Bet' (The Atlantic 7 November 2012) <https://www.theatlantic.com/business/archive/2012/11/the-second-worst-trade-of-2012-wall-streets-terrible-election-bet/264919/>

¹² Abby Phillip and Kenneth Vogel, 'Wall St. Vote: Romney by Landslide' (Politico 2012) <https://www.politico.com/story/2012/06/wall-streets-vote-mitt-by-a-landslide-077368>

¹³ Chris Martinez, 'These Fossil Fuel Industry Tactics Are Fueling Democratic Backsliding' (Center for American Progress 5 December 2023) <https://www.americanprogress.org/article/these-fossil-fuel-industry-tactics-are-fueling-democratic-backsliding/>

¹⁴ Rachel Wilson, 'Oil, Gas and Coal Interests Filling Donald Trump's "Swamp" with Cash' (Center for Public Integrity 2 May 2017) <https://publicintegrity.org/politics/oil-gas-and-coal-interests-filling-donald-trumps-swamp-with-cash/>

corporates to influence the country's political landscape through unchecked and undisclosed financing, compromising the country's democracy.

The Capture of Legislative Agenda

As a result of corporate influence in federal politics, legislative capture and model legislation has proliferated. Essentially, companies, industry groups, and think tanks often draft bills that are then replicated in state capitols across the country, giving rise to 'copycat bills.'¹⁵ These bills are often disguised as the work of the lawmakers in the interests of the public, while in real sense, the drafts seek to advance the legislative and policy agenda of the corporate sponsors. In other words, State Legislatures as well as Congress pass what the large companies want, regardless of public interest.¹⁶ A 2019 investigation done by USA Today and The Arizona Republic revealed that more than 10,000 copycat bills were introduced in state legislatures in just eight years.¹⁷ These bills, often disguised with unique and deceptive titles, touched on profound issues of public interests such as consumer rights to environmental regulations.¹⁸ A good example is when the State of Texas passed the Heartbeat Act of 2021. Texas' largest anti-abortion group, Right to Life, spent \$8 million on legislative lobbying efforts for anti-abortion laws in Texas and helped fund state senators win their elections to the tune of \$4.3 million.¹⁹ This lobbyist group helped draft the Heartbeat Act and pushed for its passing, which eventually happened in 2021.²⁰ This scenario vindicates the deceptive tactics used by special interest groups

¹⁵ Rob O'Dell and Nick Penzenstadler, 'You Elected Them to Write New Laws. They are Letting Corporations Do It Instead.' (Center for Public Integrity 4 April 2019) <https://publicintegrity.org/politics/state-politics/copy-paste-legislate/you-elected-them-to-write-new-laws-theyre-letting-corporations-do-it-instead/>

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Isaiah Poritz, 'Texas' Largest Anti-Abortion Group Spent Millions on Public Information Campaign, Lobbying in the Past Decade' (OpenSecrets News 9 September 2021) <https://www.opensecrets.org/news/2021/09/texas-largest-anti-abortion-group-spent-millions-on-public-campaign-lobbying-in-past-decade/>

²⁰ Ibid.

highlighted in the investigation. For example, the Heartbeat Act does not sound like an anti-abortion law. In fact, it makes it difficult for Texas citizens to access critical abortion services especially during emergencies, compelling them to travel to states that permit the procedure. This lack of transparency makes it difficult for the public to understand the true impact of these bills and raise an alarm. Moreover, because legislatures are in office courtesy of the funding provided by these special interest groups and corporate sponsors, they cannot vote against such as punitive legislations owing to the fear of losing campaign financing.²¹ The ease with which the capture of legislative agendas through model/copy-cat bills is an indication that corporates, lobbyists, and special interest groups exert undue influence on politicians. This perhaps explains why gun control laws keep on failing despite numerous cases of mass shootings and disproportionate gun violence across the country. The National Rifle Association (NRA) is a very powerful lobby group that finances and compels politicians, especially Republicans, to vote against any restrictive gun safety and control laws proposed by Democrats.²² The investigation done by USA Today and The Arizona Republic reveals that industry-backed bills have outnumbered those that actually benefit the public.²³ As such, this imbalance undermines the democratic process, giving corporations and wealthy donors an outsized voice in shaping policy. To this effect also, legislators, both at the federal and state levels, have become pawns controlled by corporate sponsors and lobby groups.²⁴ In what can be viewed as a legislative capture, elected legislators do not independently represent the wishes of the electorate. Instead, they readily

²¹ Oliver Huwyler, Tomas Turner-Zwinkels and Stefanie Bailer, 'No Representation without Compensation: The Effect of Interest Groups on Legislators' Policy Area Focus' (2022) 76 Political Research Quarterly.

²² 'Which Senators Have Taken the Most NRA Money?' (Brady2020) <https://elections.bradyunited.org/take-action/nra-donations-116th-congress-senators>

²³ Rob O'Dell and Nick Penzenstadler, 'You Elected Them to Write New Laws. They are Letting Corporations Do It Instead.' (Center for Public Integrity4 April 2019) <https://publicintegrity.org/politics/state-politics/copy-paste-legislate/you-elected-them-to-write-new-laws-theyre-letting-corporations-do-it-instead/>

²⁴ Ibid.

advocate for the selfish business interests of lobbyists and corporates who present them with pre-written bills along with talking points, turning them into pawns who relinquish their constitutional mandate.

Need for Reforms and The Role of Stenographers

Stenographers are well-poised to play a crucial role in promoting reforms by ensuring the accuracy of legislative records. Ideally, lawmakers who rely on pre-written bills may not fully understand the content and implications for the public. As such, stenographers ought to take the initiative, read in between the lines of such bills, and participate actively in the legislative process by raising awareness. In so doing, they can help promote transparency and accountability in the law-making process. They can serve as the people who hold elected officials accountable, reminding them of their mandate to represent the wishes of the public and not the special interest groups who finance their campaigns. Stenographers ought to shine a light and raise awareness on punitive bills being advocated for by lobbyists and corporates and call for public participation in the legislative process to ensure accountability and transparency in fidelity with the constitution and democratic values of the nation. This way, the average citizen will have a meaningful role in shaping the laws that govern them, not the big corporates and special interests groups.

Bibliography

Case Law

Citizens United v Federal Election Commission (2010) 558 US 310 (United States Supreme Court)

Legislation

Bipartisan Campaign Reform Act (BCRA) 2002

Scholarly Journal Articles

Goel P and others, 'Donor Activity Is Associated with US Legislators' Attention to Political Issues' (2023) 18 PLOS ONE

Huwylar O, Turner-Zwinkels T and Bailer S, 'No Representation without Compensation: The Effect of Interest Groups on Legislators' Policy Area Focus' (2022) 76 Political Research Quarterly

Schuster SS, 'Does Campaign Spending Affect Election Outcomes? New Evidence from Transaction-Level Disbursement Data' (2020) 82 The Journal of Politics

Wouters OJ, 'Lobbying Expenditures and Campaign Contributions by the Pharmaceutical and Health Product Industry in the United States, 1999-2018' (2020) 180 JAMA Internal Medicine

Websites

'Amazon.com PAC Contributions to Federal Candidates' (*OpenSecrets*)

<https://www.opensecrets.org/political-action-committees-pacs/amazon-com/C00360354/candidate-recipients/2020>

Evers-Hillstrom K, 'Most Expensive Ever: 2020 Election Cost \$14.4 Billion' (*OpenSecrets* 11 February 2021) <https://www.opensecrets.org/news/2021/02/2020-cycle-cost-14p4-billion-doubling-16/>

Martinez C, 'These Fossil Fuel Industry Tactics Are Fueling Democratic Backsliding' (*Center for American Progress* 5 December 2023)

<https://www.americanprogress.org/article/these-fossil-fuel-industry-tactics-are-fueling-democratic-backsliding/>

O'Dell R and Penzenstadler N, 'You Elected Them to Write New Laws. They are Letting Corporations Do It Instead.' (*Center for Public Integrity* 4 April 2019)

<https://publicintegrity.org/politics/state-politics/copy-paste-legislate/you-elected-them-to-write-new-laws-theyre-letting-corporations-do-it-instead/>

Phillip A and Vogel K, 'Wall St. Vote: Romney by Landslide' (*Politico* 2012)

<https://www.politico.com/story/2012/06/wall-streets-vote-mitt-by-a-landslide-077368>

Phillips M, 'The Second Worst Trade of 2012: Wall Street's Terrible Election Bet' (*The Atlantic* 7 November 2012)

<https://www.theatlantic.com/business/archive/2012/11/the-second-worst-trade-of-2012-wall-streets-terrible-election-bet/264919/>

Poritz I, 'Texas' Largest Anti-Abortion Group Spent Millions on Public Information Campaign, Lobbying in the Past Decade' (*OpenSecrets News* 9 September 2021)

<https://www.opensecrets.org/news/2021/09/texas-largest-anti-abortion-group-spent-millions-on-public-campaign-lobbying-in-past-decade/>

Rachel Wilson, 'Oil, Gas and Coal Interests Filling Donald Trump's "Swamp" with Cash'

(*Center for Public Integrity* 2 May 2017) <https://publicintegrity.org/politics/oil-gas-and-coal-interests-filling-donald-trumps-swamp-with-cash/>

'Which Senators Have Taken the Most NRA Money?' (*Brady* 2020)

<https://elections.bradyunited.org/take-action/nra-donations-116th-congress-senators>