36 Shelby was also attempting to secure a $45 million earmark to build an FBI improvised explosive device testing lab in Alabama. For more information on Shelby's holds, see Sam Stein, "Richard Shelby Senate Hold Puts Spotlight on Defense Contractor Ties," *Huffington Post*, February 5, 2010, www.huffingtonpost.com/2010/02/05/shelbys-blanket-hold-puts_n_450934.html

37 Evan McMorris-Santoro, "Richard Shelby Drops Blanket Holds, Says They Were A Success," *TPMDC*, February 9, 2010, http://tpmdc.talkingpointsmemo.com/2010/02/richard-shelby-drops-blanket-holds-says-they-were-a-success.php

38 Blumenthal, "Boeing Has Inside Track for Tanker as Northrop Steps Aside." EADS could have continued in the competition alone but without Northrop their chances had essentially evaporated.

39 Democrats supported the amendment with a 123-68 vote; Republicans opposed it 110-130. For further details see Charlene Carter, "F-35 Alternative Engine Funding Stripped by House," *CQToday Online*, February 16, 2011.

40 In all likelihood, they paid somewhat less inasmuch as the *Post* has lower rates for "contract" customers. On the other hand, all the major contractors make routine use of the *Post* and other key publications (such as *Roll Call* and *The Hill*, both targeted to Capitol Hill readers) in much the same fashion. So, certainly, total ad budgets just for advertising in the Washington area run in the millions of dollars.

41 At $2.9 billion to date, the engine program is not all that large by defense standards. But it is just the development phase. GE and Rolls Royce stand to earn billions more if the engine is actually used in some part of the F-35 fleet at a future date. Moreover, with Rolls as its partner, GE figures to garner a large share of the foreign market, mostly European initially, if there is an optional engine with European content.

42 All numbers cited here are total PAC contributions according to the FEC website as of May 24, 2011. Note that since OpenSecrets has not yet begun to code FEC data for the 2012 cycle, information about the giving patterns of defense sector *employees* is not yet available. These numbers are for contributions by PACs only.

43 Northrop Grumman might well not assist in Dicks's reelection after his involvement on Boeing's behalf in the air force tanker controversy (noted previously).

CHAPTER 5

Past as Prologue

The Electoral Influence of Corporations

Michael M. Franz

For over a century, there has been a fear about the role of corporations in American elections. In early 2010, when the Supreme Court issued its opinion in *Citizens United v. FEC*,[1] which, as detailed in the Introduction, cleared the way for corporations, unions, and other groups to spend directly for the support or defeat of federal candidates, these concerns were amplified to a fever pitch. The 2010 congressional elections were the first major test of the *Citizens United* impact, and outside interests spent more money on express candidate advocacy than in any previous election in American history. Corporations played a unique role in those elections. They did not sponsor or run a single campaign ad on behalf of a federal candidate—which might surprise some—but many were aggressive funders of other groups that did. The rules for electioneering ushered in with the Court's historic decision in 2010 made it far easier for corporations to fund political activities, and the absence of commensurate disclosure rules made it simple to keep those investments hidden.

These developments vis-à-vis corporations are the focus of this chapter. Of course, corporations always have played a role in American politics and elections, and that perspective should be considered carefully. As such, the chapter is organized into three main sections. It begins first with a consideration of an ongoing avenue of corporate politicking, contributions to federal candidates. The ability to donate to candidates through political action committees (PACs) was unaffected by *Citizens United*, but looking at the activity of corporations in this area is essential to understanding their mind-set as they approach electoral politics. The chapter then shifts to a discussion of an outlawed area of influence, contributions from corporate treasuries to party committees—a form of electoral investment that situated corporations at the center of the contentious politics of the late 1990s. This discussion clarifies that corporations are not shy about influencing elections when the rules permit it. Finally, the chapter considers an evolving area of corporate influence, the sponsorship of direct candidate advocacy efforts. The rules in that regard have undergone considerable change in recent years, punctuated by the *Citizens United* decision in January 2010. The chapter concludes by reviewing the role of corporations in state elections (in which there is considerable diversity of rules for corporate involvement) and speculates on the implications of corporate electioneering in future cycles.

Ultimately, the question posed here is simple: how do corporations play a role in American politics and is that role too big? As the evidence will show, there is real reason to believe the answer to the second question may be yes. Corporations always have found the means to influence the political and electoral process, and this is no more true than now. Getting a real handle on the influence of corporations is no easy task, however. Whether the millions corporations invest has a distorting effect on policy outcomes after the election, for example, is a matter of considerable debate in political science, and reasonable people disagree on the ultimate power corporate America holds in the electoral process. There is no denying, however, that *Citizens United* reduced the barriers to entry, and as the campaign finance system strains under the weight of evermore challenges, it seems investing in federal elections is a growth industry.

PACs and Corporations

The initial consideration here is the role of corporate money in directly funding the electoral efforts of federal candidates. At first blush, that influence would seem limited. As discussed in previous chapters, corporations are prohibited from directly contributing to candidates and their campaigns, and they have been since the Tillman Act of 1907. Corporations are, however, legally permitted, and have been since the 1970s, to form PACs and collect donations from employees (subject to contribution limits of $5,000 per employee), which can then be redirected to candidates.[2] Unions, trade associations, membership groups, and ideological organizations can do the same. Contributions to candidates from a PAC are capped, however, at $5,000 per election. This prevents the use of corporate treasury funds for candidate contributions, on the one hand, but allows employees of the corporation to act more cohesively—although in a limited fashion—in supporting or advocating for federal candidates.

In addition to contributing directly to candidate coffers, PACs can advocate independently for the election or defeat of candidates. These are called *independent expenditures* and can take the form of advertisements, phone banking, direct mail, canvassing, billboards, and so forth. Any attempt to convince voters that a federal candidate should be elected or defeated is classified as an independent expenditure,

and these costs cannot be coordinated with the candidate.[3] Moreover, while the PAC must use money raised under the caps to sponsor these efforts, there are no upper limits on what the PAC can spend in that regard.

The data on PAC contributions and expenditures are telling as to what role corporate PACs play in American politics. The evidence is clear that corporate PACs prefer to contribute directly to candidates as opposed to spending independently on their behalf (see Table 5.1). In any given election in the last twenty years, corporate PACs account for over 36 percent of the total. In general, corporate PACs account for about a third of the PAC population,[4] and this translates into proportionate contribution totals. For independent expenditures, though, PACs consistently sponsor less than 1 percent in any specific election.

TABLE 5.1 Corporate PAC Activity, 1990–2010

Election Cycle	*Contributions to Candidates*	*Independent Expenditures (IEs)*	*Contributions as Percent of All PACs*	*IEs as Percent of All*
2009–2010	$165,455,021	$31,909	38.34%	0.00%
2007–2008	158,323,496	221,207	38.35	0.16
2005–2006	135,925,970	250,345	36.53	0.66
2003–2004	115,641,547	223,729	37.24	0.39
2001–2002	99,577,798	52,190	35.31	0.37
1999–2000	91,525,699	137,535	35.23	0.65
1997–1998	78,018,750	54,268	35.47	0.58
1995–1996	78,194,723	375,797	35.90	3.56
1993–1994	69,610,433	38,289	36.71	0.75
1991–1992	68,430,976	47,883	36.22	0.45
1989–1990	58,131,722	16,519	36.53	0.32
	$1,118,836,135	$1,449,671		

Source: Federal Election Commission.

Why the discrepancy between contributions and expenditures? In general, corporations prefer not to advocate for the election or defeat of federal candidates under the banner of the corporate entity. In that sense, corporations are "risk averse," preferring to contribute to influential incumbents, by and large, as opposed to the risky game of public electioneering. Political scientists generally sort the electoral motives of interest groups into two camps: *access* and *replacement*.[5] Interest groups with access goals prefer to curry favor with legislators through campaign contributions, hoping for a seat at the table in the drafting and passage of legislation. Groups with a replacement strategy use elections to defeat unfavorable legislators. Because independent expenditures are more direct evidence of replacement goals, the evidence in Table 5.1 suggests that corporations are more immediately interested in access.[6]

This has consequences for the role of corporations in the aftermath of *Citizens United*. Some were concerned that corporations beginning in 2010 would use their treasury funds to advocate publicly for federal candidates. Imagine, for example, if Starbucks were to put "Vote McCain" on their coffee cups or McDonald's offered a "Vote Obama" Happy Meal. Corporations engaging in such behavior would risk alienating potential customers, a price too high to pay. Corporate executives much prefer the more subtle politics of campaign contributions, which are disclosed publicly but little noticed by the voting electorate. The historic absence from corporations in the world of independent expenditures suggests then that they will not be direct campaigners using general treasury funds in future elections.

Corporations, on the other hand, are not absent from direct electioneering—far from it, in fact. They may hope to avoid a public airing of their political preferences, but it does not mean they have no stake in the outcome. To that effect, membership and trade association PACs, many of which organize to represent corporate interests, contribute heavily to candidates as well as sponsor independent expenditures.[7] For example, the National Beer Wholesalers Association, which is one of the top PACs in the country, organizes to represent corporate interests in that industry. Over the last twenty years, membership and trade PACs have contributed an additional 26 to 28 percent of all PAC contributions to candidates, and from 1990 to 2008 they sponsored between 32 and 58 percent of independent expenditures in any given election (see Table 5.2)—though it should be noted that the ratio of contributions to expenditures for these PACs is nearly 6 to 1 in 2010, suggesting that access is still the primary concern. (Note further the drop in 2010, to just 12 percent of independent expenditures, explained later in this chapter.)

Moreover, the category of trade or membership PACs is not exclusively committed to corporate interests. Some PACs in this category, such as the National Rifle Association, count citizens as members, not corporate entities. As such, not every dollar in this category of PACs should be treated as pro-corporation. Still, trade associations and membership groups form another line of attack for corporate interests to pursue replacement or access goals, and because they can better shield specific corporations from the media spotlight, trade PACs are far more likely than corporate committees to act toward replacing unfavorable legislators.

Both sets of PACs also count as noteworthy investors in elections even if we factor in the role of private citizens, who also can contribute directly to candidates and who donate the bulk of campaign contributions in American politics. In 1990, corporate PACs accounted for 18 percent of all candidate receipts, while trade and membership PACs added an additional 13.8 percent. In 2002, the totals were 13.5 percent and 10.2 percent, respectively. By 2010, corporate PACs made up 12.6 percent of House and Senate candidate coffers, with trade PACs pitching in 8.8 percent.[8]

TABLE 5.2 Trade and Membership PAC Activity, 1990–2010

Election Cycle	*Contributions to Candidates*	*Independent Expenditures (IEs)*	*Contributions as Percent of All PACs*	*IEs as Percent of All*
2009–2010	$115,335,850	$25,756,047	26.73%	12.14%
2007–2008	112,897,919	44,911,854	27.35	33.22
2005–2006	101,803,507	19,050,740	27.36	50.37
2003–2004	83,221,870	18,138,069	26.80	31.61
2001–2002	75,146,673	8,092,148	26.64	57.77
1999–2000	71,802,756	11,143,902	27.63	52.96
1997–1998	62,322,845	5,312,135	28.34	56.90
1995–1996	60,153,725	4,628,414	27.61	43.86
1993–1994	52,853,630	1,826,292	27.87	35.93
1991–1992	53,870,702	3,517,187	28.51	33.05
1989–1990	44,804,886	1,840,324	28.16	35.71
	834,214,363	144,217,112		

Source: Federal Election Commission.

The percentage drops between 1990 and 2010 were likely the consequence of two key factors: (1) the increasing relevance of Internet fundraising, which has made collecting contributions from individuals a lot easer; and (2) higher contributions limits for individuals, which were raised from $1,000 per election to $2,000 (indexed to inflation) with 2002's Bi-Partisan Campaign Reform Act. The critic at this point might hold these PAC declines as evidence for the reduction in corporate influence in federal elections, and this claim would have some truth to it. But the preceding numbers include all candidates in the totals, including challengers and long shots who appeal very little to corporate interests. Corporate PACs, along with all PACs, play a prominent role in the campaign financing of *specific* members of Congress.

In 2010, for example, House Speaker Nancy Pelosi (D-Calif.) raised $2.6 million for her reelection, 60 percent of which came from PACs. Some contributors included the Credit Union National Association, Mortgage Bankers Association, the Florida Sugar Cane League, and General Electric. Majority Leader Steny Hoyer (D-Md.) raised over $4.5 million, with 63 percent coming from PACs, including the National Restaurant Association, the American Health Care Association, and Coca-Cola. And Eric Cantor (R-Va.), who served as the minority whip in the House in 2010, raised just under $6 million for his reelection efforts, and 41 percent of that total came from political action committees such as Goldman Sachs, T-Mobile, and Bank of America.

In fact, a quick search of any prominent member of the House or Senate, either in party leadership or on key committees, demonstrates the prominent role of PACs in fundraising. This is an ongoing, and unchanged, component of American politics that greatly amplifies the role of the corporate voice in congressional policymaking.

Corporate Soft Money and Parties

In line with the ban on direct candidate contributions, corporations are similarly prohibited from using any general treasury funds for contributions to parties that help federal candidates. A loophole in the 1990s, however, seriously undermined the efficacy of that ban. This came in the form of soft money, which, as explained in Chapter 1, was officially outlawed for parties with the Bipartisan Campaign Reform Act of 2002. Between roughly 1980 and 2002, however, parties were allowed to raise unregulated funds from any source to help with their nonfederal efforts, ranging from support for state and local candidates to the purchase of office space.[9] This became an issue in the 1990s, however, when the parties stepped up their use of soft money for issue advertising that often mentioned federal candidates but stopped short of explicitly endorsing them for election or defeat. Corporations, as will be demonstrated, took full advantage of the opportunity.

It is important to pause here and once again consider the implications of the soft money loophole. Before 1996, parties were prevented from independently advocating for federal candidates in any way, under the assumption from Congress that parties could not advocate for such candidates without some collusion. (Parties could coordinate with candidates, but such efforts were capped.) In 1996, the Supreme Court invalidated that logic in *Colorado Republican Federal Campaign Committee v. FEC* and freed the parties to use contributions for independent expenditures. Between 1996 and 2002, however, parties spent only about $19 million total on such efforts, compared to $63 million from PACs. The Democratic and Republican Party committees did, however, spend over $280 million on television ads between 1998 and 2002, according to estimates from the Wisconsin Advertising Project.

What did they say in such ads? During this time period, if an ad from an interest group or party included a set of particular words or phrases (what came to be termed "magic words"), the ads were considered independent expenditures subject to stringent funding guidelines. These magic words, first listed in the 1976 Supreme Court decision in *Buckley v. Valeo* were as follows (and identified in Chapter 1): *vote for, elect, support, cast your ballot for, Smith for Congress, vote against, defeat,* or *reject.* Absent them, the ad was considered issue education or issue advocacy. The parties could use their soft money accounts for such efforts. In principle, however, the parties crafted ads that walked close but stopped short of the magic word bright line. Consider one ad from the Republican National Committee that aired in 2000:[10]

Female Narrator: Under Clinton/Gore, prescription drug prices have skyrocketed and nothing's been done. George Bush has a plan. Add a prescription drug benefit to Medicare.

George Bush: Every senior will have access to prescription drug benefits.

Female Narrator: And Al Gore, Gore opposed bipartisan reform. He's pushing a big government plan that lets Washington bureaucrats interfere with what your doctors prescribe. The Gore Prescription Plan: Bureaucrats Decide. The Bush Prescription Plan: Seniors Choose.

The ad does not tell the viewer how to vote, opting instead to compare the policy positions of Bush and Gore on prescription drugs for seniors, meaning the Federal Election Commission (FEC) considered the ad issue education and not electioneering.

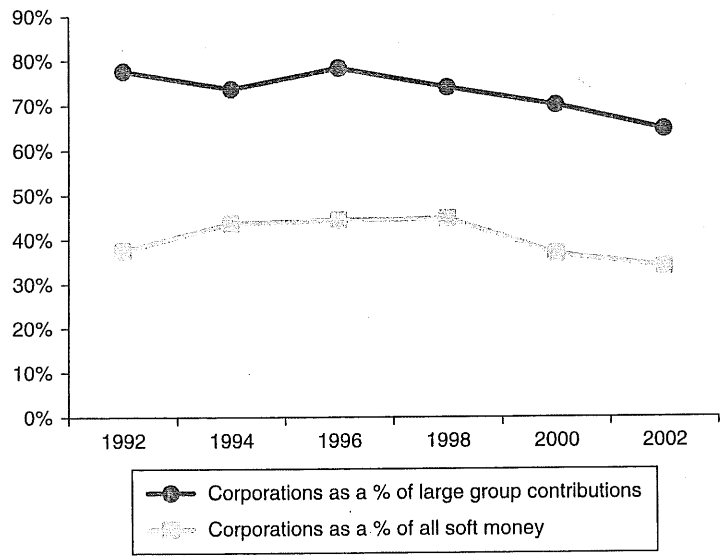
How important were corporations to party finances in this soft money period? The FEC mandated that the party committees report their soft money receipts starting in 1992, meaning there are data on six election cycles through the 2002 ban. The data are stored in the FEC's detailed files on contributions by individuals.[11] As will be demonstrated later in this chapter, available data on corporate contributions to outside groups are limited, making this analysis of party contributions all the more relevant to understanding how corporations behave politically when the rules permit it. Between 1992 and 2002, parties raised over $1.4 billion in soft money. A soft money contributor could be anyone, from a wealthy individual to a union or a Fortune 500 company.

Figure 5.1 shows corporate investments in each election as a percentage of all soft money to parties and as a percentage of interest group soft money.[12] All told, corporations played a critical role in funding the parties during the soft money period. The vast majority of those funds were allocated to the Republican Party, about 75 percent of the corporate total. The following are some of the biggest donors in this time period:

- Freddie Mac—$3.5 million in 2002 and $2 million in 2000
- AT&T—$3.3 million in 2002 and $3.3 in 2000
- Phillip Morris Company—$3 million in 1996 and $2.7 million in 2002
- Amway Corporation—$2.5 million in 1994
- Microsoft—$2.5 million in 2002 and $1.7 million in 2000
- Pfizer—$1.5 million in 2000 and $1.3 million in 2002

Keep in mind that corporations have been permitted for nearly forty years to form PACs and make contributions to party committees (in addition to candidates),

FIGURE 5.1 Corporate Soft Money Contributions, 1992–2002



Source: Federal Election Commission.

but such contributions are limited to $30,000 in total for an election cycle. During the soft money period, then, corporate donors leveraged the parties' desire for large soft money donations to become central to the party network, especially for the GOP. Unlike the world of candidate fundraising, in which corporate PACs are now a smaller share of overall receipts than they were twenty years prior (as noted earlier), corporate money in the soft money world exceeded 33 percent in every election cycle between 1992 and 2002, and over 40 percent in three of those election years (along with making up about 75 percent of large interest group donations). That suggests a powerful role for these donors in setting the party's policymaking agenda. The data here do not demonstrate actual influence on party agendas, of course, but because corporations were so critical a source of funds for parties in sponsoring their issue advocacy messages, it only stands to reason that large donors would have some say in crafting what party leaders pushed in Congress.

Soft money is now illegal, and corporations are limited to helping parties directly through their corporate PACs, which would suggest some diminished power for corporations.[13] This may be true—though the evidence in the next section might suggest otherwise—but the lesson of soft money is the extent to

which corporations will go to be important players in American politics. When the regulations are not in place to blunt that influence, corporations and other interest groups will take full advantage.

Campaign finance reformers have fought hard in the last ten years to prevent the soft money loophole from blowing back open. One court case from 2010, *RNC v. FEC*, considered a challenge from the Republican Party on whether to overturn the party soft money ban in light of *Citizens United*. If corporations, the plaintiffs argued, have free speech rights to spend independently advocating for candidates, why not extend the logic to contributions to parties? The U.S. District Court for the District of Columbia rejected that logic, and the Supreme Court refused to hear the case. In 2011, two pro-Democratic groups—as a consequence of a Republican plan—asked the FEC whether federal candidates could raise unlimited funds for interest groups working outside the party structure. Critics worried that such groups would become parallel party soft money engines. The FEC argued that this innovative proposal was not permitted relative to soliciting directly corporate or union contributions. Both developments were victories for the opponents of party soft money, but the outcome in both cases was not immediately clear, especially in light of the deregulatory trend suggested by the Court in *Citizens United*.

Corporate Electioneering and Disclosure

Thus far, the evidence suggests first that corporate PACs play an important role in funding candidates (about 38 percent of all PAC contributions and about 13 percent of all candidate contributions, with much higher investments in powerful legislators). Second, while corporate PACs are nearly nonexistent in the funding of independent expenditures, many pro-corporate trade associations eagerly fill the void. Finally, corporations played a central role in the financing of the parties' soft money operations throughout the 1990s, and although this was finally outlawed after the 2002 elections, the ban has faced pressure in the courts and in the regulatory process.

Corporate influence is not restricted to these areas, however. Although now prohibited from using general treasury funds to donate to parties, they can sponsor directly their own electioneering messages (as a consequence of *Citizens United*), as well as aid the efforts of a host of other interest groups. As with PACs, and as will be demonstrated, corporations generally eschew the former, but have embraced the latter, though assessing the level of this activity is a bit hampered by holes in disclosure mandates.

The laws and regulations structuring corporate electioneering have undergone a bit of turmoil in recent years, moving in a libertarian direction since the BCRA reforms of 2002. To best understand the role of corporations as of 2010, it may be useful to consider three key time periods over the last twenty years. Each period brought with it a unique profile of groups and corporate involvement.

Group Profile and Corporate Involvement, 1994–2002

Between about 1994 and 2002, all interest groups were free to sponsor issue advocacy messages, much like the parties, with unregulated funds.[14] Moreover, during most of this period, there was almost no disclosure for such groups. This can be demonstrated by looking at the political advertising data in two of these years, 2000 and 2002. The data come from the Wisconsin Advertising Project and include all ads aired on broadcast television in the top 75 (in 2000) or top 100 (in 2002) media markets in the United States. One challenge in using the data is that the project does not identify the campaign account that paid for the political ads, making note only of the sponsor as identified in the disclaimer at the end of the ad. Some groups have PACs that register with the FEC, as well as parallel nonprofit groups that fund issue advocacy. Nonetheless, one can cross-check whether the group had a PAC and whether it reported independent expenditures in that election cycle.

The top twenty groups airing political ads in 2000 and 2002 are listed in Table 5.3—meaning some groups are repeated if they were active in both years—excluding labor unions.[15] To be clear, this shows the number of ads on television sponsored by groups that mentioned or pictured federal candidates at any point in the election year, noting also the estimated cost of the total ad buys.[16] The last two columns indicate whether the group also had a PAC that registered with the FEC in that election cycle and the total amount in independent expenditures reported to the FEC by the PAC.

The data are striking. Only eleven of the twenty groups had a PAC, and seven of those groups reported some independent expenditure efforts in the noted year. That total amounted to only $7.4 million, however, over $5.7 million of which was from the League of Conservation Voters in 2000 and 2002. In contrast, the Wisconsin Advertising Project data identifies nearly $50 million in pro-candidate advertising. By implication, the vast majority of those funds, in not being reported to the FEC, were issue advocacy messages that stopped short of directly advocating for or against candidates but nonetheless contained some mention of them. Consider the following example from the Citizens for Better Medicare in 2000:[17]

Announcer: Congressman Shaw believes Florida seniors deserve the best health care so he is fighting to improve Medicare with an affordable prescription drug plan that gives seniors peace of mind. Congressman Shaw believes seniors should have real choices because he recognizes that every senior has different health care needs. Real choice. Quality. Affordability. Congressman Shaw has the right plan to bring Florida's seniors peace of mind. Support Clay Shaw's prescription for Florida's seniors.

TABLE 5.3 Top 20 Interest Groups in Political Advertising, 2000 and 2002

Group	*Cost*	*Ads Aired*	*Year*	*Ind. Exp.*	*Have a PAC?*
United Seniors Association	8,134,358	13,984	2002	0	Yes
Citizens for Better Medicare	6,777,291	10,876	2000	0	No
Chamber of Commerce	5,480,846	7,574	2000	0	Yes
Planned Parenthood	5,340,506	5,916	2000	66,862	Yes
Women Voters, Project of EMILY's LIST	3,639,189	2,665	2000	27,552	Yes
Americans for Job Security	3,084,484	5,555	2000	0	No
Business Roundtable	2,962,192	4,884	2000	0	No
Handgun Control	2,067,654	3,311	2000	1,243,567	Yes
Americans for Job Security	1,588,227	2,172	2002	0	No
Alliance for Quality Nursing Home Care	1,439,888	2,033	2000	0	No
Sierra Club	1,383,758	2,168	2000	330,271	Yes
Republicans for Clean Air	1,355,679	1,722	2000	0	No
Republican Leadership Council	1,180,048	1,807	2000	0	Yes
EMILY's List	971,321	896	2002	0	Yes
League of Conservation Voters	900,601	1,705	2000	3,324,178	Yes
Coalition for the Future American Worker	710,900	739	2000	0	No
Voters for Choice	699,024	683	2000	0	No
League of Conservation Voters	660,140	1,398	2002	2,391,518	Yes
American Family Voices	628,219	447	2000	0	No
Club for Growth	558,399	1,574	2002	7,049	Yes
Totals	49,562,724	72,109		7,390,997	11 of 20

Source: Wisconsin Advertising Project and Federal Election Commission.

Because these messages were not reportable to the FEC, they could be funded rather liberally with large donations from wealthy individuals, unions, and corporations. Of the twenty groups in Table 5.3, twelve of them sponsored ads that aided Republican candidates and are presumably the most likely to have accepted large contributions from corporate treasuries. (The groups aligned with the Democrats were Planned Parenthood, EMILY's List, Handgun Control, the Sierra Club, the League of Conservation Voters, and Voters for Choice.) Consider the brief profiles of a handful of them:[18]

- United Seniors Association—often described as a conservative alternative to the AARP. It was reportedly backed by a prescription drug lobby group, the Pharmaceutical Research and Manufacturers of America.
- Citizens for Better Medicare—an advocacy group formed and backed by the pharmaceutical industry; affiliates included the United Seniors Association.
- Chamber of Commerce—a trade group that advocates for corporations and maintains local chapters across the country. (See Chapter 2 in this volume for more information.)
- Americans for Job Security—a pro-business advocacy organization that is thought to have spun off of the Chamber of Commerce. Among rumored donors were Microsoft and the American Insurance Association.
- Business Roundtable—a pro-business lobbying group comprised of CEOs of large corporations.

Because Congress had not mandated the disclosure of these groups' efforts in 2000 and 2002, we have no real handle on the level of investments from outside interests absent the Wisconsin Advertising Project.[19] Still, even with the ad-buy data, we can make very reasonable inferences that corporate donors funded many of these groups. The data on party soft money from the previous section make clear that corporations do not forego significant investment in electoral politics, even if they do not sponsor pro-candidate messages directly. And while corporations may have felt pressure from party leaders in contributing to the parties' soft money accounts, so as to secure access to policymakers, corporate funding of pro-business groups is more intentional, motivated more obviously by the goal of tipping close elections in favor of pro-business candidates.

Group Profile and Corporate Involvement, 2003–2007

As noted earlier, Congress passed the party soft money ban with BCRA in 2002, but a parallel provision mandated that all ads sponsored by interest groups within sixty days of a general election and thirty days of a primary be funded only by individuals or PAC dollars. This was intended to stymie the efforts of groups like the ones listed in Table 5.3. In 2003, a number of groups organized as political organizations under Section 527 of the tax code and pledged publicly to accept large contributions to fund issue advocacy efforts in the 2004 elections. In 2004, 527s became a household name, as a variety of groups, such as MoveOn.org, Swift Boat Veterans, and Progress for America actively aired political ads that year—in much the same way as in previous elections, stopping short of explicitly calling for the election or defeat of federal candidates. For many, this was a glaring loophole in BCRA, one that neither Congress nor the FEC was able to sidestep. Ironically, however, the 2004 and 2006 elections might be the ones where corporate influence was at its weakest in the last twenty years.

How is this the case? Most importantly, 527s sponsoring television or radio ads during this time could not accept any contributions from corporations or unions for the purpose of funding advertising efforts. This was directly proscribed in BCRA. The real loophole for 527s was in the permission to accept large contributions from individuals. Table 5.4 demonstrates this by examining the top conservative-leaning 527s in 2004 and 2006, as identified by the Center for Responsive Politics. The table shows seventeen groups in both years, of which only the Club for Growth sponsored a PAC. It also shows the amount spent on independent expenditures (in this case, only the Club for Growth's efforts), and electioneering communications, the new term (first defined in Chapter 1) used by the FEC starting in 2004 referring to radio or television ads aired within the thirty or sixty day windows. To review, electioneering communications are ones that do not explicitly advocate for the election or defeat of federal candidates, but merely mention or picture them in ads. Table 5.4 also shows the total receipts reported to the IRS by each group and the percentage contributed by individuals.

The listed groups raised over $90 million in both years and bought nearly $58 million in electioneering communications. Of particular importance is the dominance of individuals in the contributor pool for these listed groups. Over 98 percent of the total came from individuals. The last column in the table also shows the largest contributor for each group, and these donations were of considerable size. Bob Perry, a Texas homebuilder, bankrolled four groups in 2006 to the tune of $9.4 million, and he was a major backer of the Swift Boats in 2004 with over $4.3 million. Other large donors included Alex Spanos, a real estate developer and owner of the San Diego Chargers and Dawn Arnall, cochair along with her husband of Ameriquest in 2004, as well as the cochair of the Republican National Convention.

Large contributions from individuals are concerning, but these contributions were not given in the name of any specific corporation, nor were they from a corporate treasury account. Whether this is good or bad for the democratic system is a matter of debate, but it is worth reemphasizing that in 2004 and 2006, the efforts

TABLE 5.4 Contributions and Expenditures of Conservative 527s, 2004 and 2006

	Independent Expenditures	*Electioneering Comm.*	*Have a PAC?*	*527 Receipts*	*% of 527 Funding from Individual*	*Largest Contributor*
Top Conservative-Leaning 527s in 2006						
Club for Growth	$2,753,238	$530,596	Yes	$6,375,280	100	Virginia Manheimer, $860,000
Americans for Honesty on Issues	$0	$3,188,095	No	$3,030,221	99	Bob Perry, $3,000,000
Economic Freedom Fund	$0	$1,938,286	No	$5,050,450	100	Bob Perry, $5,000,000
Free Enterprise Fund Committee	$0	$1,038,682	No	$1,239,003	100	Bob Perry, $1,000,000
Softer Voices	$0	$915,149	No	$1,403,300	100	Jack Templeton, $630,000
Free Enterprise Committee	$0	$350,000	No	$400,124	100	Bob Perry, $400,000
New Yorkers for Responsible Leadership	$0	$188,228	No	$128,250	76	21st Century Freedom PAC, $25,000
Republicans Who Care Individual Fund	$0	$182,561	No	$599,300	93	Robert D Ziff, $75,800
Americans for Conservation	$0	$78,000	No	$705,000	100	David Bonderman, $225,000
Totals	$2,753,238	$8,409,597	1 of 9	$18,930,928	99	

	Independent Expenditures	*Electioneering Comm.*	*Have a PAC?*	*527 Receipts*	*% of 527 Funding from Individual*	*Largest Contributor*
Top Conservative-Leaning 527s in 2004						
Progress for America Voter Fund	$0	$26,493,866	No	$44,929,178	98	Alex Spanos and Dawn Arnall, $5,000,000
Swift Vets & POWs for Truth	$0	$17,209,137	No	$17,008,090	99	Bob Perry, $4,350,000
Club for Growth	$1,499,446	$3,715,730	Yes	$6,530,939	99	GJ Jensen, $1,038,000
Americans United to Preserve Marriage	$0	$916,947	No	$1,192,090	100	Aubrey McClendon, $625,000
Softer Voices	$0	$474,570	No	$671,100	100	Bruce Kovner, $195,000
Colorado Conservative Voters	$0	$354,635	No	$525,500	100	Terry Considine and Bill Armstrong, $100,000
Americans for Peace Through Strength	$0	$100,000	No	$240,000	83	Lawrence J Ellison, $200,000
Greater New Orleans Republicans Fund	$0	$68,525	No	$90,000	100	Walter Gray, $30,000
Totals	$1,499,446	$49,333,410	1 of 8	$71,186,897	98	

Source: Federal Election Commission and Center for Responsive Politics.

of direct corporate money were stymied. Soft money to parties was banned, and 527s sponsoring issue advocacy in the final two months of the election were forced to look elsewhere for funding. Of course, corporations could still contribute to nonprofit groups using issue advocacy outside the thirty- and sixty-day windows, but Congress argued in BCRA in 2002 that these efforts were less of a concern than the ads aired in the immediate run-up to election day.[20]

Group Profile and Corporate Involvement, 2008 and 2010 (and Beyond)

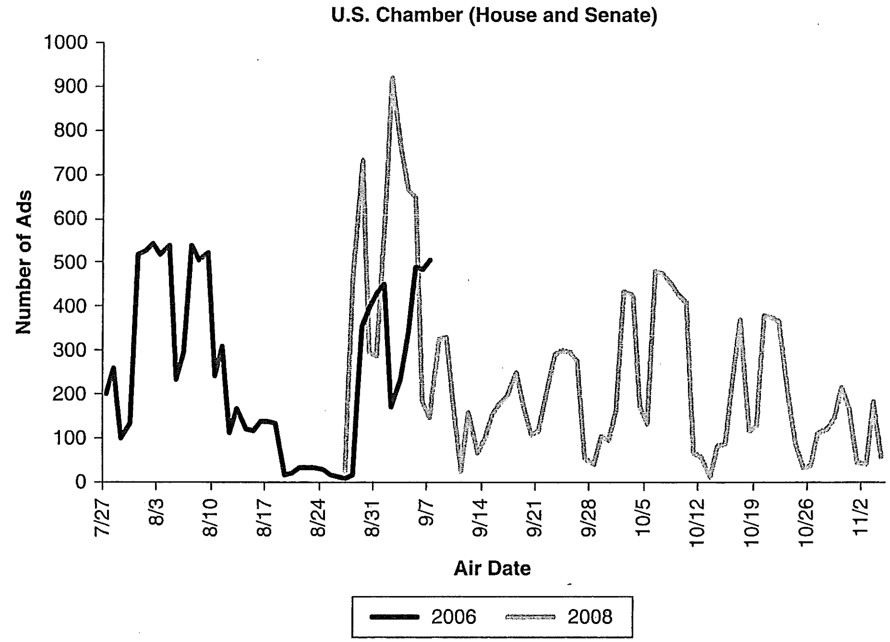
If 2004 and 2006 represented a triumph, of sorts, in blunting the role of corporate money in elections, then the most recent elections are a decided step backwards. Two Supreme Court cases have upended the rules and opened the door to unprecedented corporate influence. As noted at the beginning of the chapter, *Citizens United v. FEC* overturned all bans on corporate and union sponsorship of direct candidate advocacy. A 2007 case, however, *Wisconsin Right to Life v. FEC,* may have been more important.[21] In that case, the Court argued that the ban on corporate and union sponsorship of electioneering communications—the "good news" noted in the previous section—was unconstitutional if it prevented groups from raising funds to do genuine lobbying. The Court said, for example, that not all ads aired within the thirty- and sixty-day windows should be considered electioneering just because the ad mentions a federal candidate. If the intention of the ad is to lobby citizens to act on a policy issue, the Court asserted, the ad should be considered exempt from the corporate and union ban.

The next question is obvious: what constitutes an election ad that can be regulated and a lobbying ad that cannot? The Court offered no real guidance, opening the door for corporations and unions to once again sponsor ads that attacked or supported candidates but that were cloaked in enough policy language to be considered issue advocacy. The vagueness in that supposed distinction was enough to move the Court toward its more drastic opinion in *Citizens United.*

Consider, first, the advertising efforts of the Chamber of Commerce in 2006 (when the corporate ban was in effect) and 2008 (when issue advocacy was again permissible in the final two weeks). Chapter 2 in this volume focuses more explicitly on the Chamber's efforts in recent elections, while the example here serves only to make clear the effect of the changing rules. Figure 5.2 plots the Chamber's House and Senate television advertising in both years, showing the total ad buys per day between the first ads aired and election day.[22]

In 2006, the Chamber was on the air aggressively in early August and then again in late August and early September. All ads stopped, however, on September 7th, the beginning of the sixty-day window. And because the Chamber accepts corporate contributions, they were prevented in 2006 from using those funds in

FIGURE 5.2 Timing of Chamber of Commerce Political Ads, 2006 and 2008



Source: Wisconsin Advertising Project and Wesleyan Media Project.

the two-month period before the elections. In 2008, however, with *Wisconsin Right to Life* changing the parameters for when corporate funds could be applied to pro-candidate advertising, the Chamber went on the air in late August and advertised through election day.

A quick look at the Chamber's ads in 2008 points to their issue advocacy frame. One ad, which aired in Maine during the reelection campaign of Susan Collins, said the following:

Announcer: Health care is vital. That's why Susan Collins voted to ensure Maine seniors have better access to health care and affordable prescriptions. Collins supported funding for health technology and cutting-edge scientific research so Maine families can live longer, healthier lives. And Collins supports doctors and patients making health care decisions, not government bureaucrats. Call Susan Collins. Tell her to keep working for better health care.

The tag line urging voters to call Collins establishes the Chamber's issue advocacy goal, freeing its use of corporate donations in purchasing the airtime. That Collins was facing a tough challenge from Democratic Rep. Tom Allen was irrelevant to the test outlined in *Wisconsin Right to Life*.

By 2010, interest groups had truly been "unleashed," to borrow from this book's title, and were no longer required to shade their language to avoid calling for the election or defeat of candidates. This is clearly evidenced in Table 5.5, which lists the top twenty interest groups involved in the 2010 elections. Perhaps most striking is the dominance of reported independent expenditures over electioneering communications, the former being messages that call expressly for candidates' election or defeat and the latter being ads that merely mention candidates. The *Citizens United* decision, in that regard, freed groups to be more direct in how they communicated to the broader public. A second inference from the table is the absence of any for-profit corporation in the list of top groups. As noted with respect to PACs, and as was true for the period from 1994 to 2002, corporations are not inclined to sponsor electioneering messages directly, preferring to fund trade groups or ideological nonprofits.

From the perspective of the campaign finance reform community, the 2004 and 2006 elections were preferable because corporations were prohibited from

TABLE 5.5 Expenditures of Top Interest Groups, 2010

	Independent Expenditures	*Electioneering Comm.*	*Disclose Donors?*	*Why?*
U.S. Chamber of Commerce	$0	$32,851,997	No	501(c)(6) business group
American Action Network	5,669,821	20,418,210	No	501(c)(4) social welfare group
American Crossroads	21,553,277	0	Yes	Super PAC
Crossroads GPS	16,017,664	1,104,782	No	501(c)(4) social welfare group
SEIU	15,692,364	0	Partial	501(c)(5), PAC and 527, though its 527 receives only transfers from SEIU affiliates
AFSCME	11,995,182	68,539	Partial	501(c)(5), PAC and 527, though its 527 receives only transfers from AFSCME affiliates
National Education Association	7,239,105	105,724	Yes	527, PAC, and super PAC
American Future Fund	7,387,918	2,211,888	No	501(c)(4) social welfare group
Americans for Job Security	4,406,902	4,584,307	No	501(c)(4) social welfare group
National Association of Realtors	7,122,031	0	Yes	PAC and super PAC
National Rifle Association	7,263,028	0	Yes	PAC
Club for Growth	8,240,060	0	Yes*	PAC, super PAC, 527
60 Plus Association	6,698,287	397,838	No	501(c)(4) social welfare group
America's Families First Action Fund	5,878,743	0	Yes	Super PAC
League of Conservation Voters	5,496,070	0	Yes*	PAC, super PAC, 527
Americans for Tax Reform	4,140,044	0	No	501(c)(4) social welfare group
AFL-CIO	3,319,984	0	Partial	501(c)(5), PAC, super PAC, 527, though its latter two accounts receive only transfers from affiliated unions
EMILY's List	3,894,402	74,299	Yes	PAC, super PAC, 527
Commonsense Ten	3,257,033	0	Yes	Super PAC
VoteVets.org	2,360,867	858,004	No	501(c)(4) social welfare group
	147,632,782	62,675,588		

Source: Federal Election Commission and Center for Responsive Politics.

*These groups also have a 501(c)(4) that does not disclose, though the extent to which that account was utilized is unclear.

funding groups airing ads in the final sixty days of the election. In the absence of that prohibition currently, many would call alternatively for strong disclosure laws to clarify which groups are receiving large contributions from wealthy individuals or corporate treasuries. One consequence of *Citizens United*, however, was in empowering groups to sponsor pro-candidate ads that did not also have to disclose donors publicly. PACs and 527s have been the primary focus of this chapter, and both types disclose donors, but a number of other groups are now relevant players. These include the following:

- 501(c)(4) social welfare nonprofits
- 501(c)(5) unions; unions typically funded their federal electioneering through their affiliated PACs, but can now sponsor ads with funds from their parent (c)(5) organization
- 501(c)(6) business leagues and chambers of commerce
- Independent expenditure–only PACs (super PACs); groups that pledge only to independently electioneer for candidates and make no direct contributions to federal candidates

The first three in the preceding list do not make public their donor lists, while the last one is a new group created in the aftermath of *Citizens United* that does disclose to the FEC. All are now dominant players in electoral politics. Recall again the trade PAC totals from Table 5.2, whereby the percentage of independent expenditures from said groups dropped to only 12 percent in 2010. The steep decline was the consequence of these new groups entering the scene and sponsoring pro- or anti-candidates ads.

Of the top twenty groups, eight were not required to reveal any donors (Table 5.5), accounting for over $109 million in electioneering, which is 51 percent of the total expenditures in the table. Another nine groups did reveal donors behind $70 million in expenditures. Finally, three groups—all unions—are best classified under partial disclosure because so much of their funding comes from transfers between affiliated unions and other accounts, and how much of those underlying funds come from union dues or other sources is unclear.

Overall, one of the most critical consequences of the Supreme Court's decision in 2010 was the empowerment of groups to sponsor independent expenditures and electioneering communications without commensurate disclosure laws. Congress's attempt to rectify that imbalance—the DISCLOSE Act—stalled under a Republican filibuster in 2010. In 2011, President Obama considered, but dropped, an executive order that would have required corporations with federal contracts to make public their contributions to any group engaging in pro-candidate electioneering. As with the period from 1994 to 2002 discussed earlier, outdated disclosure provisions make it exceptionally difficult to quantify the likely large influence of corporations in this arena of electioneering. But this may be exactly the preferable outcome for corporations. Because they are averse to direct electioneering, corporations motivated to participate in electoral politics would likely prefer to make large and nondisclosed contributions to front organizations like American Action Network or American Future Fund.[23]

One other critical consequence of *Citizens United* may be the further weakening of the formal party committees relative to super PACs or 501(c) groups. While these latter organizations are now free to raise and spend unlimited amounts on independent expenditures or electioneering communications, the formal party committees (i.e., the Democratic National Committee) are constrained to hard money limits as proscribed in BCRA. As noted earlier, the parties were formally prolific in their raising and spending of soft money, but the BCRA limits potentially further alienate party leaders in the execution of campaigns. As large corporate, union, or individual checks increasingly fund super PACs, 527s, and 501(c) groups, they will take on more prominent roles in competitive elections. These groups can also coordinate amongst themselves, as many already do. The formal party committees, however, have very limited opportunities to coordinate with their own candidates and no such opportunities to work with outside groups who are otherwise their allies. These developments produce a fragmented campaign finance system in which the new central players are often untraceable front organizations with no clear and formal linkage to the party system. This outcome may not concern many, but from the perspective of democratic theory, it is a system that no one would likely design a priori.

A Word on State Elections

It is worth noting that state election laws vary considerably in the allowances given to corporations to participate in elections for state legislative, judicial, and executive offices. After *Citizens United*, all twenty-four states with corporate expenditure bans were overturned; instructively, twenty-six states even before 2010 allowed for some corporate electioneering. The ruling did not affect state contribution limits, and as of 2012, twenty-eight states allowed corporations to contribute directly to state candidates, though the limit on such contributions varies across states.[24] For example, four states allow for unlimited contributions to candidates directly from corporate treasury funds—Missouri, Oregon, Utah, and Virginia. In most other states, the limits are usually the same as those that apply to individuals and range from $250 in Maine for legislative candidates to $10,000 in Illinois. In a few states—Alabama, Indiana, and Mississippi—contributions from individuals are unlimited but are capped for corporations. And in a number of states, the rules for corporations are more restrictive than those for unions.[25]

States are often considered the laboratories of democracy, and the considerable variation in corporate regulations on electioneering allow for some assessment of the possible impact of *Citizens United* on federal elections.[26] Of course, one caveat in that regard is that comparing the impact of unlimited corporate electioneering in a state like Utah is not ideally suitable to assessing the impact on unlimited corporate electioneering at the federal level. The scale of issues considered and moneys allocated in Washington, DC are way beyond those in Salt Lake City. On the other hand, if states with and without corporate restrictions do not vary considerably in the partisan slant in the state or the success of corporations at securing favorable policies, we might more justifiably infer that the impact of *Citizens United* at the federal level will be slight.

A number of studies have looked for such effects, though more work is needed. The initial evidence suggests that states with a corporate contribution ban look similar to states without such a ban. For example, one study examined states using fifteen different metrics of political outcomes, from the business climate in various states to the progressive nature of their tax code and partisan slant of their elected legislature.[27] Across the metrics, the results showed that states with and without corporate limits tended to have similar outcomes. It should be noted that the analysis was limited to a bivariate investigation, and did not take into account other factors that might mask key differences across states. Another study compared four states in 2008, two with a corporate ban on electioneering and two without. The results similarly suggested little difference between the states on electoral and policy outcomes.[28]

Both sets of results are counterintuitive, and incredibly important. They complicate the narrative that corporate electioneering efforts have deleterious effects on the electoral process. Nonetheless, the research here is still new, and these initial findings may not hold up in subsequent elections.

Implications and Conclusions

At the end of the day, assessing the role of corporations in American politics is not an easy task. The evidence from this chapter indicates that corporate funds, while no longer a dominant component of the parties' fundraising and not a particularly noteworthy portion of 527s's receipts in 2004 and 2006, are nonetheless important players in the electioneering campaigns of nonprofits, especially post–*Citizens United*. Of course, the ability to assess the level of that influence, and to search for the donations of specific corporations, is limited by the lack of disclosure laws. One can only assume that when the Chamber of Commerce spends $33 million in 2010 on electioneering communications that their primary funding comes from the corporate members who contribute to the Chamber's budget. Again, the experience of state politics is instructive. When Target contributed $150,000 in 2010 to a political group advocating for a gubernatorial candidate that opposed gay rights, the subsequent media firestorm embarrassed the corporation. When disclosure calls attention to corporate electioneering, citizens have the chance to reward or punish corporations. Absent disclosure, corporations can avoid direct candidate advocacy but remain in the shadows with their support of nonprofit groups. As the actions of these nonprofits extend in future elections, and in the absence of better disclosure laws at the federal level, the stealth role of corporations is likely to grow.

There are two principle criticisms of the analysis in this chapter, though, both coming from different perspectives. First, any assessment of the "role of business" in American elections should be careful to note that corporations do not speak with a single voice. They are not, as some might suggest, in uniform agreement on political goals. In fact, when one scholar used corporate PAC contributions to incumbent House members to estimate the ideology of the PAC, the results revealed considerable diversity—with some PACs far more conservative than others.[29] A different analysis using an alternative methodology demonstrated that Massey Energy, for example, is far more conservative than Google, Apple, and Intel.[30] Because of this, any claim that corporations play too big a role in American politics misses the conflicts and contentions that can and often do arise when corporations engage in politics and policymaking.[31]

On the other hand, a second criticism starts with the counterclaim that even if the universe of corporations has disagreements, there may be uniformity among them on supporting free market principles at the expense of pro-labor policies, redistributive policies that include higher corporate taxes, and environmental regulations. Moreover, as political scientist Tom Ferguson argues, any analysis that looks only at corporate treasury investments misses the role of large individual contributors who use their vast wealth to push political policies that better the bottom line of their corporate employer.[32] For example, Bob Perry and others have invested millions in political groups that have electioneered for federal candidates. The discussion of 527s in 2004 and 2006 implies that contributions from wealthy individuals are less worrisome. Although these individuals did not use corporate treasury money in pursuing these goals, wealthy investors are very likely now hoping to accomplish policy ends in line with their business interests. As such, any discussion that ignores large contributions from individuals to interest groups likely underestimates corporate influence. One recent study to that effect demonstrated that contributions from individuals to federal candidates are often directed to those politicians serving on committees that regulate their employers, suggesting that contributions are motivated toward particularistic economic ends.[33] Notably, the study did not limit the analysis to members of the firms' boards, but to all donors reporting their employer on standard campaign finance disclosure forms.

There is one final consideration as well. The discussion in this chapter has focused on the role of corporations in elections, but the lobbying world is another avenue of influence. In this arena, corporations can invest general treasury dollars without limit—something that was true long before the rules liberalized for elections with *Citizens United*. And, there is some concern that lobbying investments from corporations skew policy outcomes. E. E. Schattschneider famously argued, in that regard, that "the flaw in the pluralist heaven [where competing interests cancel out and prevent any single interest from consistently winning] is that the heavenly chorus sings with a strong upper-class accent."[34] That is, poor people, labor, and citizens' groups are not often able to effectively organize or compete with the weight of big business. Two scholars have presented suggestive evidence of this by showing that across a random sample of over 130 issues on which interest groups lobbied in the mid-1990s, business and trade groups made up the lion's share of lobbying efforts.[35] Moreover, on the vast majority of issues, only a handful of groups lobbied and businesses dominated these groups.

The evidence is not definitive, however. Some earlier empirical work showed that on important issue considerations in Congress, there was often a "hollow core" to the debate, with no hegemonic player—like big business—pulling the strings.[36] A recent landmark study also argued that the real bias in the system is a firmly rooted status quo, implying that business groups or the wealthy find it very difficult to demand a policy change and expect results—though they may have had a hand in setting up the status quo.[37] Finally, a wealth of studies have failed to find consistent evidence that corporate PAC contributions facilitate lobbying by influencing the votes of incumbents on legislation.[38] Since the early 1980s, corporate PACs have totaled about 1,800 in any single election cycle, which are but a small reflection of the overall corporate universe in the American economy. According to one estimate, only about 60 percent of Fortune 500 companies in 2000 had PACs, and a more recent survey of Fortune 500 companies in 2010 identified 25 percent who did not.[39] As such, the claim that large contributors and corporate interests manage the policymaking process is a contested one.

Despite these caveats, the overall message is that corporations play an important and growing role in federal elections. Corporations have always sought to influence the political process, and *Citizens United* did not emerge out of thin air. Through PACs, party soft money, and issue advocacy, corporations have been at the center of electoral politics for a long time. What worries many is that any attempt by Congress to limit the influence of corporations moving forward faces a skeptical Supreme Court. Many worry further about the return of party soft money and the potential overturning of corporate bans on candidate contributions. One more recent case (*U.S. v. Danielczyk*, decided in U.S. District Court in May 2010) even went so far as to claim that corporations have the right to donate directly to federal candidates. That case signals that nearly all restrictions on the role of corporations in elections are at risk in years to come.

And interest groups may have used the 2010 elections to "gear up" for deeper investments—most shielded from public view—in the 2012 presidential election and beyond. A new trend for 2012 is the development of candidate-specific super PACs that are directed independently by allies of the candidate. While candidates like former House Speaker Newt Gingrich raise and spend money within federal campaign finance limits, close friends of his can raise large sums from corporate treasuries or from wealthy corporate executives to be spent independently on his behalf. As this book went to press, the GOP primary campaign was still in full swing, and by early March 2012, over thirty outside groups had aired more than 60,000 ads on behalf of the Republican candidates for president. This represented about 50 percent of all the ads aired in the campaign, by far the largest investment from outside groups in a presidential primary campaign in modern American politics. If interest groups were unleashed with *Citizens United* in 2010, the past may be but quaint prologue in the story of corporate electioneering.

Endnotes

The author is particularly grateful to Ken Goldstein at the University of Wisconsin Advertising Project (http://wiscadproject.wisc.edu/) for granting access to the political advertising data for the 2000, 2002, and 2008 elections. Political ad data from the 2006 and 2012 elections are from the Wesleyan Media Project (https://election-ad.research.wesleyan.edu/), of which the author is codirector.

1 *Citizens United v. FEC*, 558 U.S. 08-205, 2010.
2 More specifically, corporations can solicit contributions regularly only from executive and administrative personnel, as well as from stockholders; there are limited opportunities to solicit from additional corporate employees who are not executives or administrative personnel.
3 Corporate PACs are permitted to spend treasury funds in consultation with candidates to communicate persuasion messages to executive and administrative personnel, as well as to stockholders. These totals across all PACs are much lower than the contribution and independent-expenditure totals, and corporate PACs in particular spend next to nothing on these communications.
4 See Mark Rozell, Clyde Wilcox, and Michael Franz, *Interest Groups in American Campaigns: The New Face of Electioneering*, 3rd ed. (New York: Oxford University Press, 2012), ch. 3.
5 Michael Franz, *Choices and Changes: Interest Groups in the Electoral Process* (Philadelphia: Temple University Press, 2008), 54–55.
6 It is not always the case that contributions signal an access goal or that independent expenditures are always motivated to move votes on election day. Sometimes a contribution to a competitive candidate can be useful in helping the candidate build a much-needed war chest, and independent expenditures are sometimes used to signal to constituents that a candidate has done a good job at legislating. Nonetheless, each form of electoral investment is most naturally affiliated with either access or replacement.
7 These PACs cannot fundraise from corporate treasury funds, but they do collect contributions from the employees of their member corporations.
8 The denominator here excludes all contributions to candidates by individuals that aggregate to less than $200 per election. In practical terms, excluding those totals amplifies the corporate and trade PAC percentages.
9 Anthony Corrado, "Money and Politics: A History Of Campaign Finance Law," in *The New Campaign Finance Sourcebook*, ed. Anthony Corrado, Thomas Mann, Daniel Ortiz, and Trevor Potter (Washington, DC: Brookings Institution Press, 2005).

10 The ad is entitled "Priority MD RNC," and is accessible from the Living Room Candidate project, www.livingroomcandidate.org/commercials/2000.

11 Specifically, for the compilation of files between 1992 and 2002, see "Contributions by Individuals," www.fec.gov/finance/disclosure/ftpdet.shtml; transaction type 10, which identifies soft money receipts, is the relevant indicator. Each donor was then sorted by the author into individuals, unions, corporations, nonprofit groups, trade groups, and other.

12 The corporate donors that serve as the numerator in both lines are limited to contributors who gave in the aggregate at least $25,000 in soft money in any single election cycle. The denominator for the solid line is all interest group contributors giving at least $25,000 in an election cycle. This cutoff accounts for about 75 percent of all soft money contributions in each year. The denominator for the dotted line is all soft money, including small group contributions and contributions from individuals.

13 There is some evidence that corporate investors were not upset with that change and may instead have perceived party soft money in negative terms, often feeling compelled to give for fear of being shut out of party politics while also seeing little return on their investments. See Timothy Werner, "The Sound, the Fury, and the Non-Event: Business Power and Market Reactions to the *Citizens United* Decision," *American Politics Research* 39, no. 1: 118–41; Stephen Ansolabehere, James M. Snyder, Michiko Ueda, "Did Firms Profit From Soft Money?" *Election Law Journal* 3, no. 2: 193–98.

14 In principle, they were free to do so prior to 1994 as well, but did not because federal regulators and the federal courts interpreted the laws more strictly in the 1970s and 1980s (see Franz, *Choices and Changes: Interest Groups in the Electoral Process,* ch. 3 and ch. 7).

15 Unions, as might be expected, are unlikely to accept or make use of corporate donations. Parts of this table are reproduced from Rozell, Wilcox, and Franz, *Interest Groups in American Campaigns: The New Face of Electioneering.*

16 These are only ads aired on network television and exclude local cable buys and radio ads.

17 The ad was retrieved from the Wisconsin Advertising Project archive.

18 All information on each group is assembled from a web search and from each group's webpage, if still in operation, as well as from SourceWatch.org, which is maintained by the Center for Media and Democracy.

19 There are two other points worth noting in that regard. First, Congress did mandate the disclosure of contributions and expenditures by 527s in the 2002 election. Because the issue advocacy rules were so lax in 2002, not many groups funded their issue advocacy through these organizational arrangements. Second, the absence of good data on issue advocacy in this period is reflected in the discussion of outside spending on the Center for Responsive Politics' website, www.opensecrets.org/outsidespending/index.php. Their totals for 2000 and 2002 include only the reportable sum to the FEC and exclude the issue advocacy totals, which are not tracked outside the data discussed in this chapter.

20 One additional caveat to this discussion, though, is that corporations could still fund advocacy efforts close to the election in the form of direct mail or Internet activity, for example. This is nearly impossible to track systematically, but there is case study evidence that many groups were involved in such efforts in 2004 and 2006. See Kelly Patterson and David Magleby, "Stepping Out of the Shadows: Ground War Activity in 2004," in *The Election After the Reform,* ed. Michael J. Malbin (Lanham, MD: Rowman & Littlefield, 2006); David Magleby, J. Quin Monson, and Kelly D. Patterson, "Dancing Without Partners: How Candidates, Parties, and Interest Groups Interact in the Presidential Campaign," in *Dancing Without Partners: How Candidates, Parties, and Interest Groups Interact in the Presidential Campaign* (Lanham, MD: Rowman & Littlefield, 2007). To the extent that corporate money funded many of these groups is unknown, however. It should be noted that one study categorized all independent expenditures in 2010, in order to assess the extent to which television advertising dominates. That analysis confirmed that the majority of funds were spent on media advertisements, and there is no reason to expect a significantly different distribution of expenditures by type in 2004 and 2006. See Michael Franz, "The *Citizens United* Election? Or Same As It Ever Was?" *The Forum* 8, no. 4 (2010): Article 7.

21 Franz, "The *Citizens United* Election? Or Same As It Ever Was?".

22 The totals in 2006 are only for ads aired in the top 100 media markets. The totals for 2008 are for all 210 media markets.

23 There is some evidence, however, that many corporations are feeling pressure from shareholders to disclose donations to 501(c) groups or super PACs that advocate for candidates. See Kim Dixon, "More Companies Shed Light on Political Spending," *Reuters,* October 28, 2011. This pressure comes independent of any government mandates.

24 Information on state campaign finance laws was obtained from National Conference of State Legislatures, www.ncsl.org/.

25 These states are West Virginia, Tennessee, New York, New Hampshire, Montana, Mississippi, Minnesota, Massachusetts, Kentucky, Iowa, Connecticut, and Alabama.

26 One might also consider a comparison across Western democracies, which also varies in the scope of campaign finance provisions. Robert Boatright instructively compares the comparatively libertarian framework of the U.S. system to the much more restrictive Canadian system. See Robert Boatright, *Interest Groups and Campaign Finance Reform in the United States and Canada* (Ann Arbor: University of Michigan Press, 2011).

27 John Coleman, "Citizens United and Political Outcomes," (working paper, University of Wisconsin-Madison, 2010).

28 Ray La Raja, "Will *Citizens United v. FEC* Give More Political Power to Corporations?" (paper presented at the Annual Meeting of the Midwest Political Science Association, Chicago, March 31–April 3, 2011).

29 Franz, *Choices and Changes: Interest Groups in the Electoral Process,* ch. 4.

30 Adam Bonica, "Citizens United and the Myth of a Conservative Corporate America," Ideological Cartography, http://ideologicalcartography.com/.

31 See also Jeffrey Berry and Clyde Wilcox, *The Interest Group Society,* 5th ed. (New York: Pearson Longman, 2009): 184–87.

32 Thomas Ferguson, *Golden Rule: The Investment Theory of Party Competition and the Logic of Money-Driven Political Systems* (Chicago: University of Chicago Press, 1995).

33 Alexei Ovtchinnikov and Eva Pantaleoni, "Individual Political Contributions and Firm Performance" (working paper, American Finance Association 2012 Chicago Meetings, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1732750.
34 E. E. Schattschneider, *Semi-Sovereign People: A Realist's View of Democracy in America* (New York: Holt, Rinehart and Winston, 1960): 34–35.
35 Frank Baumgartner and Beth Leech, "Interest Niches and Policy Bandwagons: Patterns of Interest Group Involvement in National Politics," *The Journal of Politics*. 63, no. 4 (2001): 1191–213.
36 John Heinz, Edward Laumann, Robert Nelson, and Robert Salisbury, *The Hollow Core: Private Interests In National Policy Making* (Cambridge: Harvard University Press, 1997).
37 Frank Baumgartner, Jeffrey Berry, Marie Hojnacki, and Beth Leech, *Lobbying and Policy Change: Who Wins, Who Loses, and Why* (Chicago: University of Chicago Press, 2009).
38 Stephen Ansolabehere, John De Figueiredo and James Snyder, "Why Is There So Little Money In U.S. Politics?" *Journal Of Economic Perspectives* 17, no. 1 (2003): 105–130.
39 Ibid; Werner "The Sound, the Fury, and the Non-Event: Business Power and Market Reactions to the *Citizens United* Decision," 134.

CHAPTER 6

Onward Union Soldiers?

Organized Labor's Future in American Elections

Peter L. Francia

Organized labor celebrated the results of two highly successful elections in 2006 and 2008. Democrats, many backed by labor, won majorities in the U.S. House and U.S. Senate in 2006 for the first time since the 1992 election. In 2008, unions supported Democratic presidential candidate, Barack Obama, who defeated Republican John McCain. Democrats also increased their majorities in the U.S. House and U.S. Senate, giving the party unified control of the federal government. Yet, organized labor could not prevent a historic electoral reversal in 2010 as Republicans stormed back to win majority control of the U.S. House and reduced the Democrats' majority in the U.S. Senate by six seats.

The dramatically different outcomes in these recent elections illustrate both the potential and the limitations of unions as a political force in the early twenty-first century. As this chapter discusses, the American labor movement has undergone significant changes over the past several decades that have affected which unions hold the most influence and which ones do not. Several factors, most notably increased global competition in the labor market, have transformed the present-day labor movement from one that was once concentrated in the manufacturing sector to one that is now strongest in the public and service sectors. Today's labor movement also is more diverse, but considerably smaller as a percentage of the U.S. workforce than it was during the so-called heyday of big labor, when unions represented one of every three American workers. These changes have had not only economic significance, but also have had political implications, which this chapter explains in the pages that follow.

In addition to these developments, recent changes in campaign finance law have created both opportunities and challenges for organized labor to influence the electoral process. The U.S. Supreme Court's ruling in *Citizens United v. Federal*