

Campaign Finance Reform

Upper Sixth student Toby Pearton has written a highly academic piece on campaign finance reform in the US. What a pleasure to read. Well done, Toby.

The extract aims to discuss the extent to which campaign finance reform is needed in the US, presenting arguments like; Bipartisan Campaign Reform Act was “too little too late”; the fact money guarantees access and effectively weakens the voice of the poor; and the argument that the provisions have been largely undermined by subsequent Supreme Court decisions. However, the extract also presents notable counterarguments to these statements such as, the best way forward is to remove all caps, it is patently clear money does not buy votes or guarantee election victory and the first amendment means freedom of speech for all. One extract was written by an op-ed in the Washington Post in 2017, which is very much a left-leaning newspaper; the other extract was written by a Republican newspaper columnist in 2019 and thus is a right-leaning newspaper. Both extracts are designed to inform the reader so that they can make their view on campaign finance reform. Although the fact the extracts are written in 2017 and 2019 and therefore may suggest it is a recent source, the debate around campaign finance reform has only heightened since this time. Overall, this source can be considered credible because it provides a balanced argument from both perspectives of this emotive debate.

One argument presented in the extract is that the “Bipartisan Campaign Reform Act (BCRA) was too little too late”. This statement is suggesting that although the BCRA was a promising step forward in the issue of campaign finance reform, its provisions and measures are inadequate and out of tone with modern times. The BCRA was the first major amendment of the Federal Election Campaign Act of 1971, holding the primary purpose of eliminating the increased use of soft money to fund advertising by political parties on behalf of their candidates. Yet, since the BCRA of 2002, campaign finance has spiralled, for instance 2008 saw the first \$1 billion US election, with the 2020 US election amounting to \$14 billion. Therefore, although the BCRA was a promising development in addressing campaign finance reform, its measures were outdated and failed to provide adequate reform, as can be clearly underlined through the year-on-year increase in campaign finance. However, the contrary argument presented in the extract is that “the best way forward is to remove all caps”. Although the current caps on campaign finance reform hold the purpose of ensuring US elections are fair and democratic, the complexity of the current system ultimately leads to dodges surrounding campaign finance. Currently, individuals cannot exceed \$2,900 in donations per election, however, Political Action Committees (PAC) and Super PACS can raise and spend unlimited funds to advocate for or against a candidate. In the 2020 US election, campaign finance raised through individual and company donations totalled \$1.03 billion for Biden, with Trump accumulating \$1.42 billion. Yet, throughout the 2020 presidential election, campaign finance through Super PACs totalled \$3 billion, with around 1,219 Super PACs contributing. Therefore, although limiting the amount individuals can contribute to elections has reduced campaign finance, the formation of loop-holes around campaign finance, such as, PACS and Super PACS mean that these measures are ultimately undermined and eliminated. Overall, it is evident that the argument that the “Bipartisan Campaign Reform Act was too little too late” is more

convincing, when considering the ever-increasing campaign finance, as well as the formation of PACS and Super PACS it seems evident that these measures were too little too late.

Furthermore, another argument presented in the extract is that money guarantees access and effectively weakens the voice of the poor. This statement is asserting that, as the amount of money an individual or company has increases, so too does the access and power they hold. In the US political system, lobbying is a direct way for wealthy corporations and individuals to increase their voice, or to influence legislation and regulation. For example, the oil and gas industry have historically supported candidates from fossil fuel states who share their views on the importance of cutting tax and regulations. Since 2021, the industry has been engaged in a direct debate with politicians about the best way to combat the problems associated with oil and gas production. The industry spent \$199.3 million in 2021, in order to avoid legislation which would have significantly reduced their prices, resulting in a catastrophic loss of profits. Yet, in 2021, around 67 million tons of pollution were emitted into the atmosphere from gas and oil alone. Moreover, an investigation by the National Summary reported that around 60% of Americans live in areas where air pollution has reached unhealthy levels. Therefore, when considering the increasing amount industries spend on lobbying to protect their industries, it seems evident that the wealthy are able to guarantee access and decisions in return for donations through Super PACs, indicating reform is needed. However, the extract also raises the argument that it is patently clear that money does not buy votes or guarantee election victory. Although money can allow for an increase in TV appearances, media coverage and staff in your political campaign, the election is determined based upon the votes of the electorate and not by money itself. For instance, in the 2016 presidential election, Clinton spent around \$768 million and received 227 EC votes, whereas by contrast, Trump spent \$398 million and received 304 electoral college votes. Therefore, although it can be argued that money allows for better canvassing in a presidential election, the vote ultimately comes down to the electorate who will vote based upon their beliefs and values. Overall, it is evident the argument that “money guarantees access and effectively weakens the voice of the poor” is more convincing, when considering the abilities of wealthy individuals and companies to influence policy and legislation through campaign finance reform, it seems evident that campaign finance reform is necessary.

Finally, another argument presented in the extract is that provisions have been largely undermined by subsequent Supreme Court decisions. The Supreme Court is an independent branch, formed to ensure the rights of individual and companies are not infringed. In the Supreme Court case of *Citizens United v Federal Election Commission*, the justices decided that corporations and interest groups also have protection from the first amendment and therefore, confirming that companies were able to pay for advertising of specific candidates, which had been banned by federal law prior to this point. For example, in the 2020 presidential election, the National Rifle Association (NRA) spent \$16.3 million in pledging support to Trump and opposing Biden. This is because the Republican Party are in favour of gun rights, therefore are less likely to implement gun control which would be catastrophic for the NRA. Notably, spending in the 2020 presidential election from the 10 largest Super PACs totalled just under \$35 million, this being possible due to the Supreme Court Case of *Citizens United*. Therefore, although the implementation of acts such as the Bipartisan Campaign Reform Act

eliminated the increased use of soft money, Supreme Court decisions – such as that in Citizens United – undermine this measure; ultimately, allowing for companies to contribute as much as they see fit. However, the contrary argument is that in the US they have the first amendment which, like it or not, means freedom of speech for all. This statement is suggesting that, although there is ever-increasing campaign finance in the US, the US constitution protects freedom of speech and therefore, individuals and companies donating to a political party or candidate is simply an expression of this inalienable right. For example, a recent survey conducted by The Economist reported that 1 in 3 Republicans are likely to donate to their candidate, with 1 in 6 Democrats also likely to donate. Moreover, an investigation conducted by the New York Times reported that around \$447 million is raised from public and private companies to the Republicans each year, compared with the \$205 million for the Democrats. Therefore, individuals and companies donating to political candidates or parties is simply an expression of their first amendment right, as per the constitution, and consequently campaign finance reform is unnecessary. Overall, the argument presented in the extract that “the first amendment rights means freedom of speech” is more convincing, although the Supreme Court decisions have undermined current provisions, individuals and companies are simply expressing their first amendment right when donating to a political party.

In conclusion, it is evident that campaign finance reform in the US is needed. Therefore, the arguments presented that the BCRA was too little too late, the fact money guarantees and effectively weakens the voice of the poor and the argument that the provisions have been largely undermined by subsequent Supreme Court decisions are more convincing. When considering the loopholes around the BCRA, such as that of PACs and Super PACs, as well as the fact corporations can utilise their wealth in order to directly lobby the executive and the fact the case of Citizens United Case essentially allowed for the creation of Super PACs, it seems likely that campaign finance reform is needed in the twenty-first century.