

Senate Committee on Campaign Finance
House Committee on Rules
2019-03-13

Against Censorship of Political Speech

Testimony of Kyle Markley

Perceived Problems

- 1) Political campaigns are expensive
- 2) The candidate with the most money usually wins
- 3) Oregon gets “bad grades” on campaign finance
- 4) Special interests have influence over government

Perceived Problems

- 1) Political campaigns are expensive
 - 2) The candidate with the most money usually wins
 - 3) Oregon gets “bad grades” on campaign finance
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- A true observation is not necessarily a problem
 - Not all problems should be addressed by government
 - Weakening free speech is not necessarily the best solution

Expense of Campaigns

- Not expensive relative to \$74 billion budget
- Campaign spending informs the voters
 - That's good
- More money means more speech
 - Not a zero-sum game

Money and Winning

- Distinguish correlation from causation
 - Did they win because they raised more money?
 - Did they raise more money because they were going to win?
- Random distribution of political alignments and willingness to donate would result in what we see
- Great examples of underdogs winning despite less money:
 - Donald Trump, Alexandria Ocasio-Cortez, Andrew Gillum

Bad Grades

- Center for Public Integrity: Oregon gets an “F”
- Institute for Free Speech: Oregon gets an “A+”

- Many states have raised or repealed their contribution limits
- Most states still have them, so: Where’s the hard data demonstrating contribution limits lead to better outcomes?

Special Interest Influence

- What does “undue influence” even mean?
- What about campaign contributions that don’t influence?
- What about influence unrelated to campaign contributions?

Specific Scenario

- 1) Legislative candidate announces platform
- 2) Special interest identifies candidate as likely ally
- 3) Special interest makes large contribution to candidate
- 4) Candidate spends contribution on political speech
- 5) Political speech persuades electorate to vote for the candidate
- 6) Candidate wins election
- 7) Legislation creating targeted tax credit for special interest is introduced
- 8) Elected candidate votes in favor of tax credit
- 9) Tax credit is passed into law
- 10) Special interest receives large tax credit

Privacy in Political Activity

- American tradition: Federalist / Antifederalist Papers
- Protects people from repercussions of unpopular ideas
- Focus on the message rather than the speaker or the backer
- Forced disclosure makes it easy to build “enemies lists”

The Voice of Concentrated Interests

- Speech is the only defense available to concentrated interests
- Four wolves and a sheep voting... and the sheep can't talk
- Voting is already perfectly equal
- Speech can only persuade: it violates no one's rights
- Censorship creates ignorance, by design

Freedom to Criticize Government

- Outlawing dissent is a hallmark of totalitarian government
- *Citizens United* was about criticism of a government official
- Censoring political speech keeps voters ignorant
- Censoring political speech keeps government unaccountable