

Widener University Delaware Law School

From the Selected Works of Luke M Scheuer

January 20, 2015

Save Elections from Secret Money People

Luke M Scheuer



Available at: https://works.bepress.com/luke_scheuer/4/

Save elections from secret money people



DELAWARE VOICE
LUKE M. SCHEUER

In his heyday nearly a century ago, Will Rogers made Americans smile with an observation that our country "has the best politicians money can buy." This week, on the fifth anniversary of *Citizens United v. Federal Election Commission*, it's fair to say the cost, but not the quality, of our politicians has increased dramatically.

In *Citizens United*, the Supreme Court ruled that corporations, trade associations, labor unions and other groups have a constitutional right to spend whatever they like to influence elections. Since the Court's decision, donors have invested billions of dollars in political candidates and elected officials. Nationally, the Presidential and congressional campaigns of 2012 cost a combined total of more than \$6 billion, roughly double the price tag for the elections of 2000.

The additional and often untraceable donations have transformed our political campaigns into fundraising contests. Today's candidates typically devote more time and energy to courting big dollar donors than to addressing the challenges facing their constituencies. Although billions have been given to political candidates, we now have the least productive Congress in memory and a poisonous political atmosphere that makes it seem impossible to pass legislation to bolster our economy, make our communities safer or combat the effects of climate change.

The cash infusion has been just as unhelpful here in Delaware as we struggle with campaign finance



reform. As Special Prosecutor E. Norman Veasey's 2013 report demonstrated, Delaware's campaign finance laws are weak and leave major loopholes for politicians and contributors to exploit. Sadly, many of Veasey's recommendations for reforms, including banning contributions from corporate entities, have gone unimplemented. Delaware has made some limited strides to improve campaign finance rules, including a recent bill that stops corporations from contributing without disclosing the person driving the contribution. Nevertheless, state reforms can only go so far as long as the Supreme Court insists corporations have the First Amendment right to fund politicians.

The justices insist that money equates to free speech and political spending is protected by the First

Amendment. But *Citizens United* has simply produced more paid speech – television commercials, internet ads, mass mailings, billboards, faux documentaries – and more opportunities for the wealthy and well-connected to convert their cash into political power. The decision gave that handful of Americans a license to grab their bullhorns and start shouting, drowning out the rest of us.

We can do better, and millions of us are trying. Last year, more than five million people signed petitions demanding a constitutional amendment that would overturn *Citizens United* and again give Congress and our state legislatures the ability to put sensible limits on political spending. Voters or legislators in 16 states and about 500 localities, with a total population of more than 120 million, also have called for an amendment. One of several draft amendments introduced in Congress got 54 votes in the U.S. Senate last September – a clear majority.

The amendment would simply restore laws in place before *Citizens United*; it expressly protects freedom of the press and bars any attempt to restrict the content of one's speech. The reasonable spending limits it would permit would make it possible to ensure that everyone has a chance to be heard, but no one is able to drown out other speakers.

To mark this anniversary of *Citizens United*, concerned Americans have planned hundreds of rallies, marches, teach-ins and other activities across the country. Please join Common Cause in supporting this historic effort to save our democracy.

Luke M. Scheuer, a member of the board of directors of Common Cause of Delaware, is an assistant professor of law at Widener University School of Law.