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Money in the 2014 Congressional Elections: Institutionalizing a Broken Regulatory System

Abstract: The campaign finance system has fragmented campaign activity in response to rules that are unworkable in a strong party system. The 2014 congressional elections illustrate how party coalitions have adapted to practices that enable them to raise and spend money outside this formal regulatory framework. For several election cycles, partisan interest groups have used outside campaign organizations to circumvent rules that constrain candidate and party committees. The 2014 elections illustrate how party leaders in Congress and these candidates have now embraced the outside campaign strategy to wrest some control from other elements of the party. Recent changes to campaign finance rules may shift additional money toward traditional committees, but outside groups like Super PACs are now established features of US political campaigns.

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Introduction

The dynamics of political money in the 2014 congressional elections were hardly surprising. While the media told a sordid story about the role of "dark money" in influencing electoral outcomes, the facts illustrate a more prosaic situation.[1] Electoral outcomes were largely predictable based on the fundamental structure of the election before a dollar was spent. Republican electoral gains came from an unpopular Democratic president, a slow economic recovery, and the lucky circumstance of facing incumbent Democrats in seats whose partisanship favored

1 Dark money refers to spending by organizations that are not required to disclose the source of their contributions. Constituted primarily as 501(c)(4) organizations under the tax code, they can avoid disclosure regulations enforced by the Federal Election Commission so long as the do not spend more than half their budgets on political activities. A discussion about 501(c)(4) organizations follows in this article.

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the GOP. To be sure, outside money could have mattered at the margins in a few races, but it hardly played the impactful role that journalists and campaign consultants tend to attribute to it. Moreover, rival party candidates in competitive contests had financial parity, so neither side can truly claim to have won based on superior resources.

The tale of dark money, however, should not obscure a larger story about campaign finance in the 2014 midterms, and that story includes three key dynamics. First, the flow of money in politics follows an inexorable rhythm based on fundamentals, which I will outline momentarily. Second, the channels through which money flows are shaped by campaign finance laws that privilege some groups over others. The rickety condition of the campaign finance system tilts money toward partisan interest groups that can most easily evade the formal laws. Third, the 2014 election suggests that innovations to sidestep the rules, first introduced by partisan factions, are becoming institutionalized by the party leadership in an effort to wrest control from the more ideological wings in the parties.

The mainstreaming of Super PACs and other outside groups to wage campaigns indicates that the breakdown of the regulatory system is a *fait accompli*. Despite the fact that the campaign finance system was designed in the 1970s for candidate-centered elections, the majority of funds in competitive elections are now spent independently by parties or Super PACs rather than candidates. Looking toward the future, candidates will rely increasingly on campaign organizations such as Super PACs that fall outside the scope of formal laws adopted under the Bipartisan Campaign Reform Act (BCRA) of 2002. Congress recently modified aspects of the BCRA, which will plausibly siphon some outside financing back to traditional candidate and party committees. But barring further changes to the law, we can expect the financing of congressional elections to remain fragmented among competing partisan factions, highly inefficient and fueled by various shades of "dark money."

An Outdated Campaign Finance System

Before discussing the ebbs and flows of money in the most recent election, it would be helpful to understand why the formal regulatory framework no longer works. The basic problem is that the design of the campaign finance laws reflects a mismatch with the current party system. I have explained this problem in a previous article in *The Forum*.[2] The original sin is that the laws assume a candidate-

2 Raymond J. La Raja, "Why Super PACs: How the American Party System Outgrew the Campaign Finance System," *The Forum* 10, no. 4 (2013), 91–104.

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centered electoral system, in which money flows primarily through candidate committees. This design works in a weak party system, particularly when one party dominates government. That was precisely the situation in the 1970s when the 1974 amendments to the Federal Election Campaign Act (FECA) institutionalized candidate-centered financing of political campaigns.

Not surprisingly, incumbents under this system accumulated huge surpluses of campaign cash to thwart potential rivals. The system was highly inefficient, because a large portion of this money could have been used to finance potentially competitive contests rather than sit in officeholder accounts. The party organizations, which are uniquely incentivized to use funds efficiently to win elections, played a very small role in redistributing money to needy candidates. During the 1970s and 1980s, the minority party at the time, the Republicans, was at a distinct disadvantage in waging campaigns to cut away at Democratic majorities.

Since the 1990s, the party system has changed considerably. There is intense competition for control of Congress in both chambers. More critically, the major parties have diverged into highly distinctive ideological brands. This means that which party gains the majority matters considerably more than three decades ago. With high policy stakes and close margins in Congress, it becomes imperative for partisans to organize collectively and efficiently to increase the odds of controlling government. In most democracies, including the US, the party organization is the traditional venue to pursue such collective action. The US parties, however, are highly constrained by laws so that they cannot easily organize and finance campaigns.

To take one example, contribution limits to parties have been unrealistically low. When the FECA was implemented, parties could raise $20,000 per individual per year. But that sum was not adjusted for inflation. If it were, the parties today could raise roughly $100,000 per year (or $200,000 per election cycle). The parties received some minor relief under the Bipartisan Campaign Reform Act (BCRA) of 2002, which adjusted the contribution limit to $32,400 and tied increases to inflation. But in comparison to the original $20,000 under the FECA (which would now be inflation-adjusted $100,000), the BCRA limits pinch the political parties precisely at a time when the party system is *much* stronger compared to the candidate-centered era of the 1970s. Despite the urgency to organize in pursuit of majorities, the party organizations cannot easily invest directly in the most competitive races because of unrealistically low caps on how much they can support candidates.

The consequence is that partisan interest groups fill the breach. Such groups reflect ideological elements in the parties and are adept at campaigning and mobilizing base voters. These organizations reflect, for example, the environmentalists and pro-choice elements in the Democratic Party; and the pro-gun and anti-tax groups in the Republican Party. In relying heavily on these ideological factions, party candidates increasingly embrace the policy priorities of such groups. The implications for governing are tangible because fewer legislators overlap ideologically with members of the other party. The electoral power of ideological factions gives confidence to the most extreme members of Congress to pull the party in their direction, while instilling fear in moderates who may attempt bipartisan compromise.

Supreme Court jurisprudence has consistently protected the right of political committees to spend independently without limits, e.g., *Buckley v. Valeo* (1976) and *Citizens United v. Federal Election Commission* (2010), even as it upholds laws on contribution limits as a means of thwarting quid pro quo corruption. The Federal Election Commission (FEC) argued against the distinction between contributions and expenditures, particularly as it applied to political parties, which are uniquely bound to candidates. The Court, however, ruled in favor of allowing parties, like interest groups, to spend unlimited amounts independently of their candidates in *Colorado Republican Federal Campaign Committee v. FEC* (1996). That ruling safeguarded a key role for political parties in supporting candidates, even though party officials had to establish separate party committees to wage independent campaigns.

In recent years, non-party groups have gained a significant advantage over party organizations because they no longer face restrictions on the source and size of contributions. An appellate court ruling, *SpeechNow.org v. FEC* (2010), used the logic of *Buckley* and *Citizens United* to affirm that independent groups could not corrupt candidates since there is no direct exchange of contributions or coordination. Given this reasoning, the source and size of contributions to independent groups do not corrupt, which means there is no compelling government interest in encroaching on rights of association by restricting such contributions. The party organization, however, did not qualify for this standard, according to a US. District Court in *Republican National Committee v. FEC* (2010) because the Supreme Court in *McConnell v. FEC* (2003) upheld the BCRA rules banning “soft money,” i.e., the limits on the source and the size of contributions to parties.

The Fundamentals of Money in Congressional Elections

With restrictions on party financing of politics, it is predictable that independent spending would burgeon through non-party (yet partisan) groups. The stream of partisan money outside the formal channels of the campaign finance system emerges from a Progressive Era approach to reform that relegates party organizations to the status of interest groups. With party committees enfeebled by financial constraints, collective organizing takes root among the many factions of the party coalition. The financial limits are little more than small dams that attempt to block the flow of money in the system, but yield overflows to lightly regulated groups. The overflows ensue precisely because "fundamentals" in congressional elections drive the demand for money.

These fundamentals are not complex. They are based primarily on two factors: the number of competitive races and whether majority control of Congress is seriously contested.[3] We can apply the fundamentals to the 2014 elections. The House had fewer competitive races than in the previous midterm, and majority control was not at stake. According to the Cook Political Report, the number of swing seats declined from 103 in the previous 2010 midterm to 90 in 2014.[4] Given the political environment, most experts acknowledged that Republicans would retain control of the House rather easily.

The low probability of a majority turnover decreased the demand for money. Preliminary estimates from the Center for Responsive Politics suggest that fundraising by House candidates declined in 2014 compared to previous elections.[5] The net receipts of House candidates at the end of June were about $712 million, compared to $770 million in 2012 at the same point in time. Some of this decline is related to the fact that candidates now rely on outside groups to campaign on their behalf. Those figures do not show up here, but I will discuss them momentarily.

The situation in the Senate was different. At the outset of the cycle, both parties considered at least 11 of 33 races to be highly competitive. More critically, control of the chamber was at stake, unlike in 2012 when most experts believed Democrats would retain control.[6] Election year comparisons in Senate races are not easy, since state populations differ and a few uniquely expensive races can affect the totals significantly. However, reports from the Center for Responsive

3 Other factors affect overall costs to some degree as well, such as the size of the electorate and the cost of the media markets.

4 David Wasserman, "The Partisan Voter Index," *Cook Political Report*, http://cookpolitical.com/story/5604 (accessed 16 Dec. 2014).

5 Most of the campaign finance data reported here reflect estimates based on reports delivered in mid-October, a few weeks before the end of the election. Therefore, they underestimate the total amount for the election cycle.

6 Philip Rucker and Paul Kane, "In 2014 Midterms, Parties See Different Issues and States as Path to Senate Majority," *Washington Post*, 20 Feb. 2015, http://www.washingtonpost.com/politics/in-2014-midterms-parties-see-different-issues-and-states-as-path-to-senate-majority/2014/02/19/5a472b70-957f-11e3-8461-8a24c7bf0653_story.html.

Politics (CRP) indicate that spending in Senate elections was heavy and that much of it came from outside groups.[7]

Given the dynamics of the 2014 congressional elections, in which the GOP retains the US House and takes over the Senate, one might expect election spending to increase slightly or stay flat. The preliminary estimates suggest as much. Figure 1 shows comparison for spending over time, with an estimate for the 2014 elections by the Center for Responsive Politics (CRP). These totals include spending by candidates, parties, and non-party organizations, and they are adjusted to 2012 dollars. According to CRP, the election cost $3.54 billion, with the financing split almost evenly between campaigns supporting Democrats and Republicans. Even if the final tallies show additional spending, it will not be by much. Total spending in 2014 will be roughly about that the same as (or less than) in 2012 and 2010.

The majority of this money is invested in a handful of competitive races. And yet, incumbents who are not electorally threatened engage heavily in fundraising, in order to help the party shift money to marginal contests. In

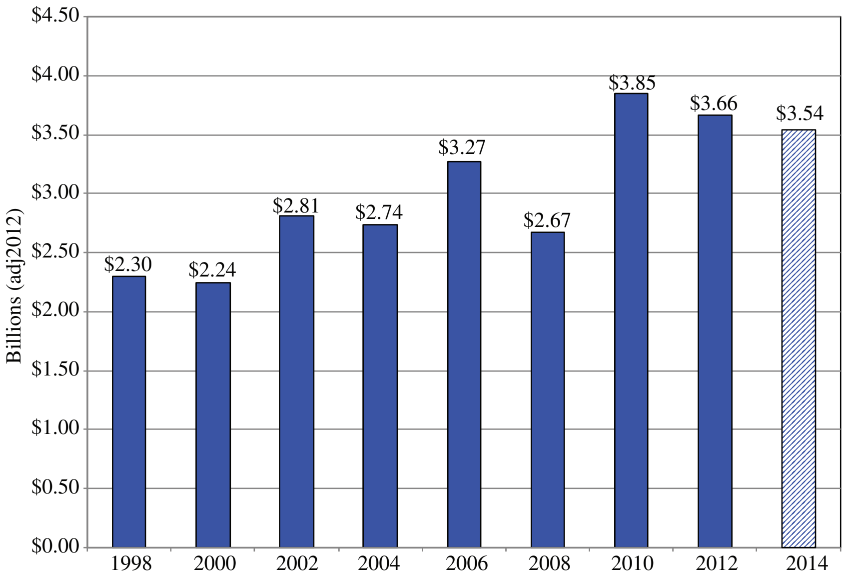

Figure 1 Cost of Congressional Elections, 1998–2014.
Source: Center for Responsive Politics.

7 Center for Responsive Politics, "Most Expensive Races," https://www.opensecrets.org/overview/topraces.php (accessed 15 Dec. 2014).

2014, incumbents raised more than six times as much as challengers.[8] Such differences are not unusual and tell the story of a hugely inefficient campaign finance system, which relies significantly on officeholders to exploit the power of office to extract contributions from PACs and lobbyists. Low contribution limits on parties and candidates means, paradoxically, that they spend more time raising money. A portion of officeholder campaign funds are then turned over to the party committee or given directly to candidates in need. Party leaders face the toilsome task of preventing incumbents from hoarding the cash for future races.

Ongoing Distortions in the Campaign Finance System in 2014

The accumulation of money with incumbents is just one kind of inefficient distortion. The other is the leakage of campaign money to tributaries outside the formal channels of the regulatory system. With tight limits on the party organization, it is inevitable that partisans will devise innovative ways of marshaling campaign resources for needy candidates. Various factions of the parties have established organizations to campaign on behalf of candidates. On the left, these include labor unions, environmental groups, and various liberal advocacy groups, such as MoveOn.Org. On the right, there are business associations, pro-gun organizations, and various anti-tax advocacy groups, such as the Club for Growth. The most prevalent types of groups have been dubbed "Super PACs," which can accept unlimited donations and spend without constraint so long as this is done independently of the candidates. In 2014, there were 1274 Super PACs with \$175 million coming from liberal-oriented groups and \$149 million from conservative-oriented groups,[9] supporting Democrat and Republican candidates, respectively.

Another type of non-party organization is a 501(c)(4) which may also raise money in unlimited amounts. But there are important differences compared to Super PACs. Under the tax code, a 501(c) organization is the IRS designation for non-profit groups and the (4) is the subsection referring to "social welfare" groups having a civic purpose (e.g., a volunteer fire company). These groups may engage

8 Center for Responsive Politics, "Incumbent Advantage," https://www.opensecrets.org/overview/incumbs.php (accessed 20 Dec. 2014).

9 Center for Responsive Politics, "2014 Outside Spending, by Super PAC," https://www.opensecrets.org/outsidespending/summ.php?chrt=V&type=S (accessed 17 Dec. 2014).

in political activities, but to keep their designation as social welfare groups they may not make politics their primary purpose. In practice, this means political spending must constitute <50% of their budget.

The great advantage of a 501(c)(4) groups is that they are not required to disclose donors, which is why they have been dubbed "dark money" organizations. In 2014, CRP reports that 501(c)(4) groups spent $219 million, up from $161 million in 2012. They appear to be the vehicle of choice for Republicans, since 70% of 501(c)(4) expenditures supported GOP candidates. The ability to give money anonymously is obviously attractive for wealthy donors who want to avoid retribution against them personally or their business interests.

Looking at the source of expenditures in 2014 elections, it becomes immediately clear that candidates are no longer directly in control of financing of their campaigns. Figure 2 shows the categories of spending based on preliminary estimates through mid-October. Candidates accounted for roughly $1.6 billion or 43% of expenditures. Parties, meanwhile, accounted for $1.1 billion, or 30%, largely by spending independently of their candidates. Non-party groups spent $690,000 or close to 20%. (The other category includes amounts that PACs spend on overhead.) Michael Malbin of the Campaign Finance

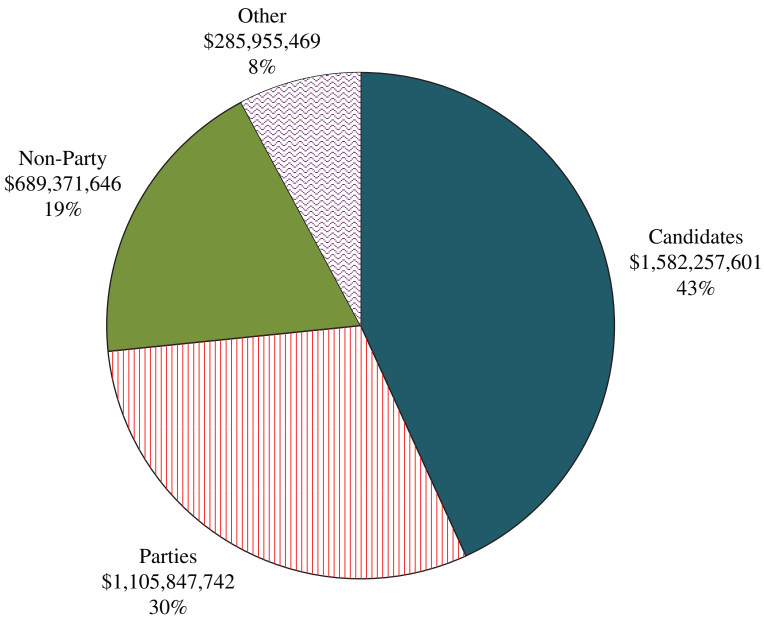

Figure 2 Congressional Campaign Spending in 2014, by Category.
Source: Center for Responsive Politics (data based on reports through mid-October).

Institute estimates that outside spending increased by roughly 9% since the previous election.[10]

The aggregate figures for outside money underplay its pervasiveness in the most critical congressional races. Not surprisingly, most outside money in 2014 was dedicated to Senate races, where the balance of power was at stake. Figure 3 shows a simple chart of average spending by House and Senate candidates in races won by 55% or less. The top chart distinguishes between spending by House candidates ($1.7 million), parties ($1.3 million), and non-party groups ($.8 million). In House races, the percentage of spending by parties and non-party groups combined exceeded that of candidates by 10 points. Almost all of this was in the form of independent spending, done without direct consultation with the candidate committees. Independent spending was relatively rare in the 1970s when FECA's candidate-centered rules were adopted. The changes to the party system encourage partisans to pour resources into key races, despite campaign finance laws that attempt to minimize the role of such groups in financing elections.

The presence of outside groups was even more pervasive in Senate elections. In the competitive races, non-party groups rather than parties dominated campaign expenditures, accounting for an average of 45% of all spending in the contest. The party committees, in contrast, accounted for just 16% of spending. In the very top races, spending was completely dominated by non-party groups. More than $113 million was spent in the North Carolina race between Hagan (D) and Tillis (R), of which 73% ($82 million) was sponsored by outside groups.[11] Similarly, in the Colorado Senate race between Udall (D) and Gardner (R), outside groups dominated by spending almost 70% of total financing in a contest with an estimated cost of $101 million.

In a clear sign that the old regulatory framework is failing, spending by traditional campaign committees (candidates, PACs, parties), which are heavily regulated by the Federal Election Commission, has begun to decline relative to spending by non-party groups. According to the Campaign Finance Institute, total spending from traditional campaign organizations dropped from $2.9 billion in 2012 to $2.7 billion in 2014. And the average expenditures by House candidates have gone down sharply from $1.5 million in 2012 to $1.2 in 2014.

10 Michael Malbin, "Election Review: Whose Voices Were Loudest," *Campaign Finance Institute Press Release*, 7 Nov. 2014, http://www.cfinst.org/Press/PReleases/14-11-07/Parties_and_Candidates_Outspent_Non-Party_Groups_in_Almost_Every_Close_House_Race_in_2014_Non-Party_Groups_Were_More_Important_in_the_Senate.aspx (accessed 19 Dec. 2014).

11 Center for Responsive Politics, "Most Expensive Races," https://www.opensecrets.org/overview/topraces.php?cycle=2014&display=currcandsout (accessed 20 Dec.).

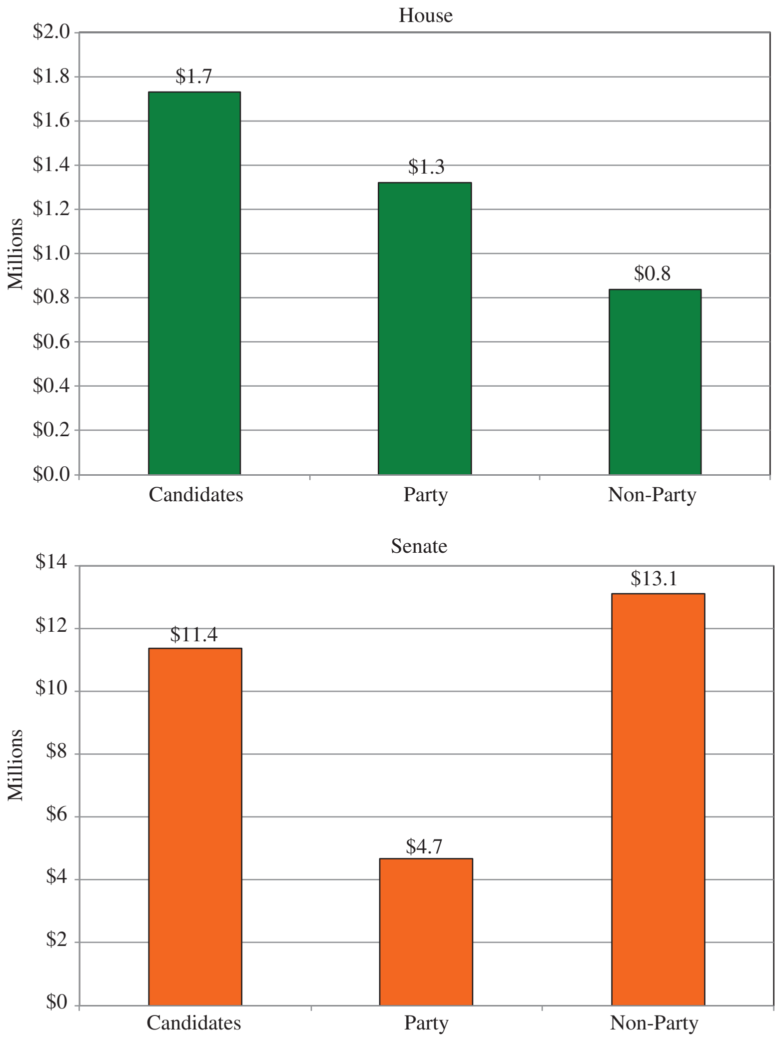

Figure 3 Average Spending in Competitive House and Senate Contests, 2014.
Source: Campaign Finance Institute.

What Changed in 2014

The decline of spending by traditional committees is evidence of the institutionalization of outside groups in campaigns. Some of these groups represent highly ideological factions in the party, such as Tea Party adherents. But increasingly, the outside activities reflect efforts by mainstream elements in both parties to exploit the breakdown of the campaign finance system. What changed in 2014 is that the party establishment and its leaders fought back successfully against trends that have dispersed power to the more extreme elements of the party. These actions by the party leadership do necessarily portend long-term movement toward the moderate middle. The median ideology of members in Republican and Democratic caucuses will remain far apart for quite some time. Nonetheless, the most extreme elements in the party coalitions will be challenged more directly by mainstream conservatives and mainstream liberals.

During the 2014 election cycle, the party leadership appeared to pursue three strategies as a way of maximizing the potential for winning seats and gaining leverage in the governing process. First, on the Republican side, the leadership mobilized the establishment faction to deter entry of far-right candidates in primaries by cutting deals with such candidates to exit races or by exploiting Super PACs in primaries to help the establishment candidates. Recall that just 4 years earlier, Tea Party candidates won in the 2010 GOP primaries in Alaska, Colorado, Delaware, Florida, Kentucky, Nevada, Wisconsin, and Utah. In several of these states (notably Delaware, Colorado and Nevada) the extremism of these nominees helped Democrats win the seat. The wave of anger that catapulted Tea Party candidates to office in 2010 dissipated somewhat in 2012, but the GOP still suffered losses at the polls by having relatively extreme candidates in Missouri and Indiana. Additionally, in Texas the candidate backed by the Tea Party, Ted Cruz, unseated the establishment candidate for the Senate. Cruz has been a constant thorn in the side of GOP leadership, where his obstructionism in Congress contributed to the shutdown of the government in October of 2013.

In 2014, the GOP leadership in the Senate was taking no chances in its goal to win a majority. The NRSC intervened by trying to prop up establishment candidates in several races. This was most obvious in Colorado where they convinced conservative ideologues to drop out in order to clear the path for Representative Cory Gardner.[12] GOP leaders did a fairly good job in helping establishment candidates win in some of the same states that nominated Tea Party candidates previously, including Alaska, Colorado, and Kentucky. They also successfully promoted favored candidates in Georgia, Kansas, and North Carolina.

The increased spending in GOP primaries underlines this conflict between the GOP mainstream and its far right wing. Spending in GOP primaries has been steadily ratcheting up in past several cycles, from just $7.6 million in 2010, to $32.8

12 Cameron Joseph, "Gardner Gets Clear Primary Path in Colorado," *The Hill*, 18 Mar. 2014, http://thehill.com/blogs/ballot-box/201036-gardners-final-primary-foe-drops-bid-in-colorado.

million in 2012, to $46.5 million in 2014.[13] The Chamber of Commerce, an ally of mainstream Republicans, spent at least $7 million this election, much more than it ever spent in a primary. Other traditional professional associations, such as the American Hospital Association and National Association of Realtors, also jumped in the fray. Additionally, campaign organizations sponsored by individual business tycoons were enjoined to help the party leadership. One example was Ending Spending Action Fund financed by TD Ameritrade founder and Chicago Cubs owner Joe Ricketts. Even Karl Rove's group, American Crossroads, which had previously avoided GOP primaries, became engaged in a few nominations.

Mississippi turned out to be ground zero for the intraparty battle, even though Democrats had little chance of taking this seat. A Super PAC called Mississippi Conservatives spent almost $2 million to help the six-term incumbent Thad Cochran hold onto the GOP nomination against a Tea-Party candidate, State Senator Chris McDaniel. Mississippi Conservatives were advised by party stalwarts such as Henry Barbour (lobbyist and nephew of former RNC chair and Mississippi Governor) and financed by loyal party donors and business interests in Mississippi. Tellingly, it received the most funds from the leadership PACs of GOP Senators with top positions in the party caucus, including McConnell, Portman, Corker, Burr, Crapo, Blunt, and Hatch.[14] Mississippi Conservatives went so far as to mobilize black voters to participate in GOP primaries in support of Cochran. Looking to the future, the Super PAC strategy in primaries seems well-suited for party leaders trying to play a decisive role in nominating mainstream candidates. Under the cover of friendly Super PACs, they can plausibly deny a personal role in picking nominees in local elections.

The second way party leadership is trying to increase its influence is to embrace the use of Super PACs in the general election as integral to the party campaign structure. In this instance, the Democrats have taken the lead with the Senate Majority PAC, which spent even more in this election than the DSCC. The Senate Majority PAC started small in 2011, but is now a major player in elections, placing one out of every 20 ads in the Senate elections, more than any other Super PAC.[15] Harry Reid himself solicits funds for the organization from traditional

13 Paul Blumenthal, "GOP Establishment Keeps Promise to Counter Tea Party with Surge in Primary Spending," *Huffington Post*, 7 July 2014, http://www.huffingtonpost.com/2014/07/03/gop-establishment-spending_n_5552753.html.

14 Paul Blumenthal, "How GOP Donors Funded Sen. Thad Cochran's Winning Appeal to African-Americans," *Huffington Post*, 15 July 2014, http://www.huffingtonpost.com/2014/07/15/thad-cochran-african-american_n_5589944.html.

15 Carrie Levine and Dave Levinthal, "This Super PAC Was Behind 1 Out of Every 20 Senate Ads," *Time*, 3 Nov. 2014, http://time.com/3553907/senate-majority-pac-campaign-finance-citizens-united/.

Democratic donors and labor unions. Some donations come from a 501(c)(4), which is run by a former staff member of the Majority Leader. The House counterpart, the House Majority PAC, has also been very active and will likely expand its campaign work in 2016.

The party-controlled Super PACs enable consistent campaign messages, and help coordinate with other independent groups engaged in the race. These affiliated independent groups also include single-candidate Super PACs that focus on just one race. In the Senate, single-candidate Super PACs accounted for at least $60 million in spending. We are likely to see single-candidate Super PACs proliferate in coming elections, perhaps even displacing much of the campaign work of traditional candidate committees. Single-candidate Super PACs may also be used to help other candidates and earn gratitude with colleagues, much the way Leadership PACs have been used in the past to increase the influence of ambitious members of Congress.[16]

Third and finally, some campaign finance rules have changed to the benefit of traditional party organizations, which are under the control of party leaders. There can be little doubt that party leaders, particularly the incoming Majority Leader of the Senate, Mitch McConnell, urged the prominent Republican donor Sean McCutcheon several years ago to challenge the constitutionality of aggregate contribution limits, which have been in place since 1974. In *McCutcheon v. FEC*, the Supreme Court ruled that aggregate contribution limits had no genuine purpose in preventing quid pro quo corruption. Therefore, the government could not prevent donors from giving to as many committees as desired. Previously, donors could give no more that $117,000 per election cycle to candidates, parties, and PACs. The *McCutcheon* ruling did not challenge the individual contribution limits of $2600 to individual candidates or $32,400 to parties, but declared the aggregate limits invalid.

This ruling is good for party organizations. Previously, parties competed with candidates for funds from the same limited pool of major donors. Now parties can easily set up joint fundraising committees (JFC) to share event costs and raise money in coordination with candidate committees. With a single check, a donor can give $2600 to the candidate and $32,400 to the party simultaneously through a JFC. Since the *McCutcheon* decision, the number of active JFCs has increased from 370 in 2010 to 516 in 2014.[17] The most prominent JFCs are controlled by the

16 Leadership PACs are established my members of Congress to raise money for other candidate campaigns, as well as defray some travel and office expenses for the officeholder. Individuals can contribute up to $5000 per year to a Leadership PAC. The PAC may, in turn, contribute up to $5000 per election to other candidate campaigns.

17 Center for Responsive Politcs, "Joint Fundraising Committees," https://www.opensecrets.org/jfc/ (accessed 20 Dec. 2014).

party leadership, such as the "Boehner for Speaker Committee," which raised more that $35 million this election.

More recently, Congress took action against the campaign finance rules directly. In the closing weeks of the 113th Congress, the leadership slipped a rider into an omnibus bill that passed with bipartisan support. The rider allowed party organizations to raise a lot more money. In addition to the current contribution limit of $32,400 per individual per election, the rules now allow parties to raise money up to $97,200 for each of three different additional accounts. One account would be for party conventions (only for RNC and DNC); a second account would be used to defray building expenses; and a third for legal fees related to vote recounts and other legal counsel. All told, a donor who wants to maximize contributions to the national committees could conceivably give $777,600 to party committees each year. That means more than $1.5 million during a 2-year election cycle.

The additional funds help defray non-campaign costs, which frees up money for campaign activity. There is no doubt that this change to the contribution limits, along with *McCutcheon*, will enhance the financial position of party organizations. And with the new Republican majority in both chambers, it is plausible that Congress will eliminate or increase limits on coordinated spending with candidates. In House elections, for example, parties currently may spend only $93,100 in the general election in cooperation with their candidates. These constraints have compelled party committees to spend independently of candidates, which is highly inefficient and rather incongruous in the context of elections in which candidates bear the party label.

Concluding Remarks

The dynamics of political financing in the 2014 elections might be characterized as the revenge of the party establishment. After several election cycles in which highly ideological factions like the Tea Party exploited the weakening position of party organizations under the BCRA rules, party leaders have begun to institutionalize practices that shore up their influence. On the right, this includes using Super PACS controlled by their surrogates to help nominate establishment candidates. On the left, this means using the Super PACs in the general election to move large amounts of money to competitive contests. In 2016, the GOP will likely follow the example of Democrats and expand the use of Super PACs controlled by party leadership in the general election.

Party leaders will also benefit from changes in the law due to the *McCutcheon* ruling and the legislation passed recently in Congress, which helps the party committees acquire additional resources. Putting more resources into the hands of party insiders will tend to reduce campaign fragmentation and give additional influence to the establishment factions of both parties at the expense of their most ideological wings.

Nonetheless, the campaign finance system will remain a hodge-podge of different committees, some more regulated than others. As I argue here, innovations to circumvent the BCRA rules – through Super PACs, 501(c)(4)s, and JFCs – are becoming institutionalized as part of the campaign finance "system" – if you would call it that. This is a regrettable outcome, because outside organizations have opaque names and many do not disclose donors, making the financing of politics porous and leaving partisan elites unaccountable to the electorate. Through surrogates, candidates will continue to set up Super PACs exclusively for their own campaigns, which will render traditional candidate committees less important.

If Congress acts to modify the BCRA, by raising significantly the contribution limits to candidates, a substantial flow of campaign money may siphon back to traditional candidate committees. Notwithstanding these efforts, the pie is baked. The dynamics of the strong party system, along with judicial decisions, have effectively dismembered the conventional regulatory structure promulgated by the FECA and re-introduced by the BCRA. Barring congressional action to loosen restrictions on candidate and party committees, we can expect the financing of congressional elections to remain fragmented among competing partisan factions, highly inefficient, and incomprehensible to all but the most sophisticated election lawyers.

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