

//Notas de Análisis//
SEED MONEY AND PARTY BUILDING

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“The difference between selling a vote and selling access is a matter of degree, not kind. And selling access is not qualitatively different from giving special preference to those who spent money on one’s behalf.” Supreme Court Justice John-Paul Stevens, author of dissenting opinion on *Citizens United v. Federal Election Commission*.

“By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate.” Supreme Justice Anthony M. Kennedy, writing for the majority, *Citizens v Federal Election Commission*

The 2010 midterm elections cost a total of \$4 billion dollars, including federal campaign spending by candidates and political parties raised in the two-year cycle 2008-2010, and funding by independent groups. Although the Democratic Party committees raised more money than the Republican Party, Conservative-leaning independent groups outspent Democratic-leaning group two to one. The US Chamber of Commerce, American Action Network, American Crossroads and Crossroads GPS, four “shadow GOP” groups, top the chart of independent donor groups, with two Democratic-leaning federal employee unions coming in a distant fifth and sixth, according to data reported by Opensecrets.org.

The Supreme Court decision *Citizens v. Federal Electoral Commission* of January 2010 changed the law to allow corporations and unions to spend unlimited amounts of money on behalf of or against political candidates. If they choose to do so directly, they must report their expenditures and reveal their donors. Unions regularly report their donations to the Department of Labor and the FEC. However, corporations are loath to reveal their donors, so they take an easier and more enticing alternative made possible by the same ruling, which lifted an earlier ban that prohibited them to give money to nonprofit organizations. Referred to as 501c organizations, these are groups that finance advocacy advertisements (also known as “issue ads” or “electioneering communications”) and are not required by law to reveal their donors. Needless to say, an array of these new non-profits suddenly exploded into the political landscape and propped up the campaigns of the Tea Party newcomers and other Republican candidates who, oh so ironically, want to “change Washington from the inside.” They were very successful in winning House races, but much less so in the Senate.

In American politics, there are three main sources of campaign financing: money spent by the candidates themselves (from their own fund-raising or personal wealth), money spent by the party campaign committees on behalf of the party candidates, and money invested by outside groups who in general fund “issue ads” attacking or defending a candidate’s record on issues but not explicitly soliciting the vote. In deciding by a 5-4 vote that corporations have the right to spend unlimited amounts of money for and against candidates, the Supreme Court transformed the electoral landscape in a way potentially more profound

than it can be fathomed today. As many predicted, the *Citizens United* ruling unleashed the greatest wave of corporate spending in history, though it is probably safe to say that their spending in 2012 will make this year's outlay look modest.

Although Democratic candidates raised more money and had a 60% spending advantage at the outset of the campaign, the new "GOP shadow" groups created outside the party overpowered them with their large, unrestricted donations. For example, American Crossroads and American Crossroads GPS, two organizations set up by political wonk Karl Rove spent at least \$75 million on key House races. And although Labor unions in some cases matched that number in support of Democrats, the main difference lies in the fact that Labor unions do it openly, while the other "non-profit", "advocacy" groups operate anonymously.

By law, they do not have to disclose their donors to the Federal Election Commission. Although it is true that most money is candidate- driven or party-driven and is therefore regulated, the rest, so called "soft money" that doesn't go directly to a candidate's campaign is now completely unregulated. As the tide turned decisively against the Democrats in the last two weeks before the election, Obama took aim at the anonymous flood of money by outside groups on behalf of Republican candidates, saying that it corrupts the process and provides an unfair advantage to their opponents. Along that same line of thought, many Democrats have claimed that the big winners of the election were not Tea Partiers and the GOP, but Big Oil, pharmaceutical corporations and insurance companies who have the most to lose from the President's reform agenda. Republicans prevailed in 75% of the House races in which they spent more than Democrats. But they were not so fortunate in the Senate, where the money impact was less or in some instances, even backfired.

Money alone cannot sway an election, of course. But *anonymous* money can be much more effective in creating political furors over false information, for which there is no responsibility and little deniability, since the source is unknown. This is why revealing the source is important for the integrity of the democratic process. People need to know whose interests the newly-elected Congress will be representing. The huge number and clout of these undisclosed campaign financiers is arguably the most antithetical trait of a government of the people, by the people, for the people. Even more so in a year of populist anti-incumbent mood and new blood coming to Washington directly from the grassroots, to do away with appropriations, deny access to interest groups and balance the budget based on the best interests of, who else, but the American people?

Indeed, to add plausibility to the above argument, money appeared to be much less effective when voters knew where it came from. A case in point is that of the self-funded millionaire candidates. Republican candidate Meg Whitman, former eBay CEO running for governor of California, spent \$ 140 million of her own money (the most expensive race of all times and at all levels) and lost to District Attorney Jerry Brown (a former Democratic governor who has beaten two gubernatorial records in his lifetime, being the youngest governor when he was first elected in 1974 and the oldest one today). Similarly, Republican Linda McMahon, former CEO of the World Wrestling Federation, who was running for a Senate seat in Connecticut, also lost in spite of having spent 46 million of her own money. And the list goes on and on, with few exceptions. Of the 32

candidates who spent more than a million of their own money in a federal race, only 4 won.

But this election is not only important for the obvious reasons, namely, that it may deny President Obama a second term and give a free hand for Republicans to repeal everything the White House has accomplished in these two years. There is another less conspicuous but not less relevant issue at stake. At the same time as they were voting for Congress representatives and some Senate seats, Americans in several states were also electing new governors and new state legislators. Republicans won 11 state governorships and seized 18 state legislatures that were previously in Democratic hands. These newly elected Republican state legislatures and governors will have the power of re-districting, that is, of re-drawing new political district boundaries of about 200 House districts in 2011. This is an opportunity that comes on the year after a federal Census, which is held every ten years, and that each party covets, since it enables the incumbent party to reshape the political landscape at the national level for a generation. Redistricting (or its corrupted form, “gerrymandering”) is an obvious vice of the “Winner Takes All” electoral system and one that not many are interesting in reforming, since both parties take advantage of it when in power. In sum, the huge amounts of money strategically invested in this 2010 mid-term election delivered a Republican tsunami that affected all levels of government, put the next re-districting cycle safely in Republican hands and rebuilt party capacity for the near future.

In the meantime, on Sunday night all pundits’ eyes were on Sarah Palin’s new reality show on The Learning Channel, “Sarah Palin’s Alaska”, where she goes hunting and fishing with her family and makes intriguing, but no doubt, very deep remarks about “Mamma Grizzly” and her protective instincts, as bear cubs pounce around in the creek to catch their salmon. She also quips about building a 14-foot fence to prevent her nosy neighbor from intruding into her life and cleverly draws a parallel between her fence and “how to secure our borders”. Ready to fall asleep, I suddenly startled myself with the thought that this was the first broadcast episode of a presidential primary already underway.

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