

Editorial

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The Secret Election

For all the headlines about the Tea Party and blind voter anger, the most disturbing story of this year's election is embodied in an odd combination of numbers and letters: 501(c)(4). That is the legal designation for the advocacy committees that are sucking in many millions of anonymous corporate dollars, making this the most secretive election cycle since the Watergate years.

As Michael Luo [reported in The Times](#) last week, the battle for Congress is largely being financed by a small corps of wealthy individuals and corporations whose names may never be known to the public. And the full brunt of that spending — most of it going to Republican candidates — has yet to be felt in this campaign.

Corporations got the power to pour anonymous money into elections from Supreme Court and Federal Election Commission decisions in the last two years, culminating in the Citizens United opinion earlier this year. The effect is drastic: In 2004 and 2006, virtually all independent groups receiving electioneering donations revealed their donors. In 2008, less than half of the groups reported their donors, according to a [study issued last week](#) by the watchdog group Public Citizen. So far this year, only 32 percent of the groups have done so.

Most of the cash has gone to Republican operatives like Karl Rove who have set up tax-exempt 501(c)(4) organizations. In theory, these groups, with disingenuously innocuous names like American Crossroads and the American Action Network, are meant to promote social welfare. The value to the political operatives is that they are a funnel for anonymous campaign donations.

Mr. Rove's group, American Crossroads, hopes to spend \$50 million, and is already advertising against Democratic candidates in California, Pennsylvania, Nevada and other states. The American Action Network, led by Norm Coleman, the former Republican senator from Minnesota, is spending \$25 million, and has been blasting the Democratic senators Patty Murray in Washington and Russell Feingold in Wisconsin.

The United States Chamber of Commerce, still boiling over its failure to stop health care reform, is spending \$75 million to defeat the lawmakers who approved it. Their donors need not be revealed. (Labor unions are trying to do the same thing for Democrats, but cannot raise nearly as much money.)

The new secrecy era began with the 2007 Supreme Court [decision in the Wisconsin Right to Life case](#), which tore away federal restrictions on corporate and union political spending in the weeks just before an election. The F.E.C. interpreted that decision to mean that unless an ad explicitly said “elect John Doe” (as if that matters), corporate donors did not have to be disclosed.

Then the Citizens United decision fully legalized such donations under the First Amendment. That new protection has led to the flourishing of the (c)(4) groups, which know they will not be investigated by a deadlocked F.E.C. or an Internal Revenue Service that has bigger issues to deal with.

The Citizens United decision, paradoxically, supported greater disclosure of donors, but Senate Republicans have filibustered a bill that would eliminate the secrecy shield. Just one vote is preventing passage. That act is coming back for another Senate vote. The two Republican senators from Maine, Susan Collins and Olympia Snowe, might want to read a recent [poll by the Maine Citizens for Clean Elections](#), which showed that 80 percent of the state’s voters support public disclosure.

It is too late for a new law to have any effect on the dark swamp of this year’s elections, but there is still hope that Congress will allow the sun to shine on the elections of 2012 and beyond.