

## Clean Elections vs. Political Speech

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Last year one of the most-analyzed Supreme Court cases was a First Amendment challenge to campaign finance law in *Citizens United v. F.E.C.* Next week, in [McComish v. Bennett](#), the Court will hear arguments in another campaign finance case, and this one has similar potential to alter the role of money in American politics. The case will essentially decide the Constitutionality of state public election funding programs that according to the vast majority of academic studies have made elections more competitive and voter-centric. While a decision on a relatively obscure campaign finance law may not appear to be particularly important, this case is going to be a big deal for any state or municipality seeking ways to reform its elections. Everyone with an interest in how money affects elections should be watching closely.

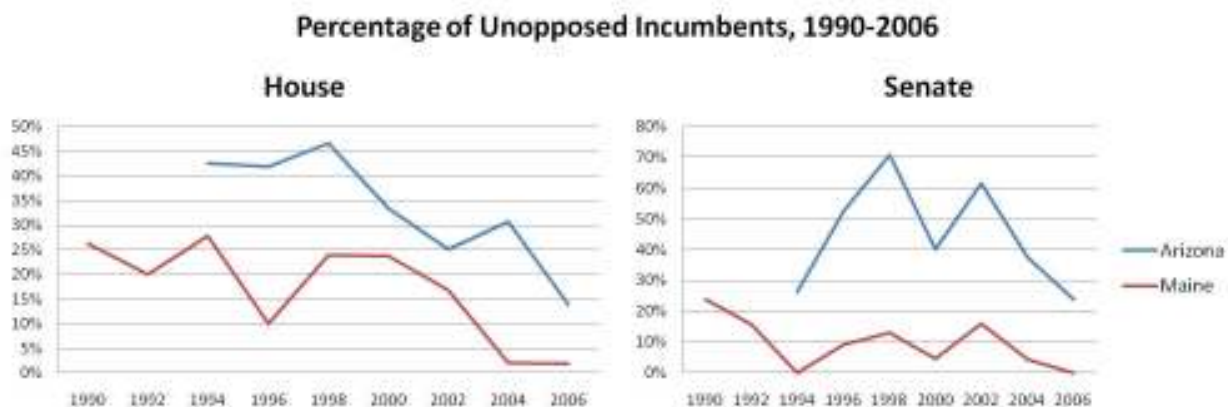
Here's the background in a nutshell: Since 2000, Arizona and Maine began new programs (dubbed "Clean Elections" by supporters) that offer state candidates public election subsidies covering the entire cost of a campaign. Connecticut started a very similar program in 2008, and at least three other states offer full funding in some elections. In exchange for these grants, which they qualify for by raising a not-insignificant number of \$5 contributions from citizens, candidates agree to raise no additional money from private sources and to limit their spending to the amount of the grant. So if John Smith from Tucson decides that he wants to run for the Arizona House, so long as he can convince 220 people to contribute exactly five dollars, the state will give him more than \$30,000, or enough to run a well-funded general election campaign for Arizona state office with no donor money. In short, public funding is supposed to make money—and donors—less important.

The issue in *McComish* turns on matching funds provisions that guarantee financial parity (up to a point) for candidates who take public money. Participation in Clean Elections is optional, meaning candidates may opt out to raise and spend their own private money. Yet, when these "traditional" candidates spend large sums against publicly funded opponents, the latter receive extra grants matching traditional candidate spending dollar-for-dollar. So if John Smith's opponent raises \$20,000 more than Smith's original grant, the state will cut Smith an additional check in that amount. This provision is designed to guarantee that candidates who participate in public funding will compete at financial parity, even with extremely rich opponents.

Enter strategy. When Clean Elections was enacted in Arizona, it wasn't long before traditional candidates figured out that every dollar they raised above the spending limit, in the words of one such candidate I interviewed for a 2008 article ([gated](#)), "feeds the alligator trying to eat (them)." Thus, while traditional candidates may *want* to raise money for ads and events, they recognize that doing so will essentially amount to a campaign contribution for their opponent. Since they have an incentive to restrict their spending during the campaign, traditional candidates argue that Clean Elections chills their political speech.

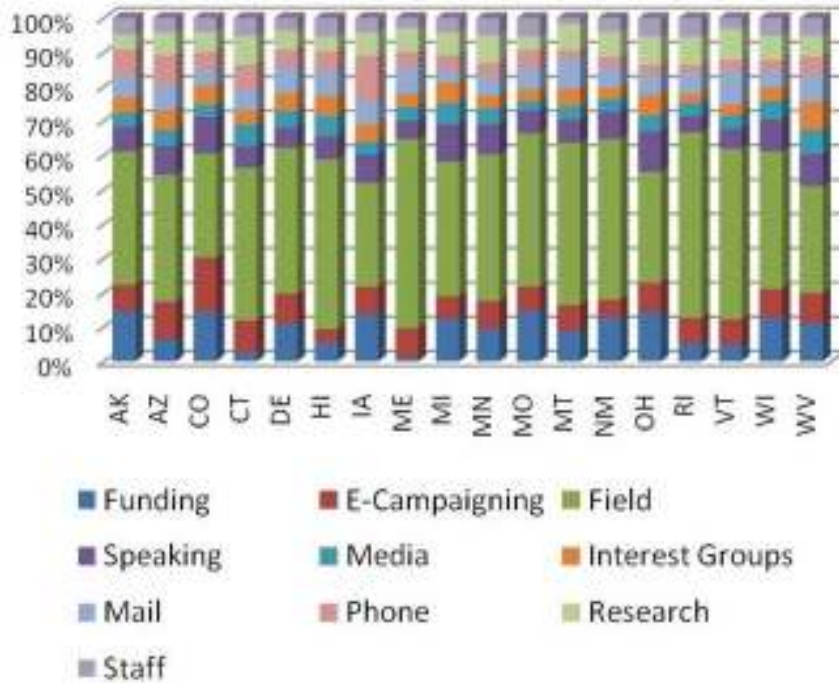
Yet efforts of the petitioners ([who cite my work](#)) in *McComish* to depict Clean Elections as a nefarious brake on speech present only half of the story. There is no existing evidence that non-participating candidates raise less money in Clean Elections systems. In an excellent [amicus brief](#), Costas Panagopoulos, Ryan Enos, Conor Dowling, and Anthony Fowler report no evidence of reduced spending by non-participating candidates. Furthermore, in the very piece that the petitioners cite to justify their case, I show that rather than *halting* their spending, traditional candidates have merely adjusted their financial activity to game the system; they still raise and spend money, but at the very last minute—too late for their opponents to receive matching funds. In 2006, for instance, 40% of all matching funds allocations in Arizona came on the last day of the election. Traditional candidates face no legal restriction on their fundraising, instead strategically *choosing* to delay spending. If they bombard their districts with campaign materials in the election’s closing days, traditional candidates should argue more accurately that matching funds affect not *what* they say, but *when* they say it.

Moreover, political scientists have consistently shown that Clean Elections alters the way in which campaigns are waged. The most studied effect is in the area of electoral competition. Neil Malhotra ([gated](#)) found evidence that when challengers accept Clean Elections subsidies, elections are closer, which is consistent with earlier [evaluations](#). And while evidence in state senate elections is less clear, the figures below show downward trends in instances of unopposed house incumbents in both states and in the Maine Senate through 2006, which is the last year for which I presently have data.

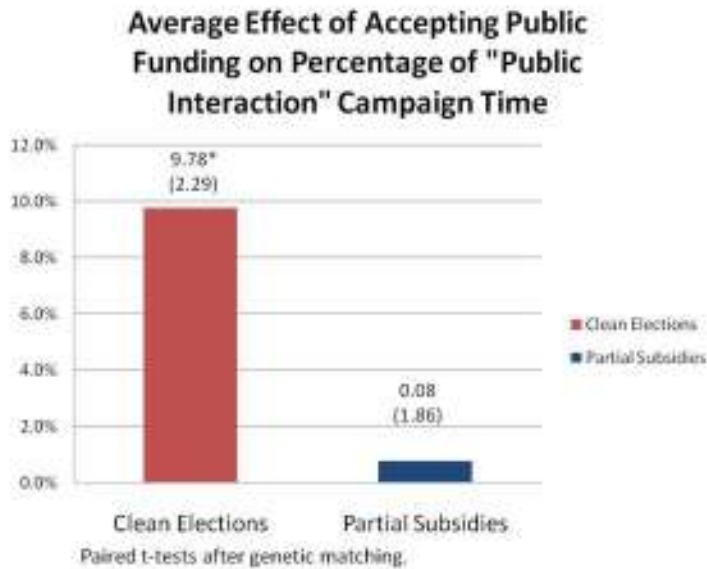


But Clean Elections also has broader, less observable effects. In my doctoral dissertation, I collected surveys from state house candidates in 18 states during the 2008 election, and did field interviews with Arizona politicians following the 2006 campaign. I asked them about how they spent their time, why they chose the funding plan that they did, and how they felt about their campaigns. The figure below shows the percentage of time that candidates in each state devoted to various activities.

## Percentage of Time Devoted To Campaign Activities, By State



“Field” work—knocking on doors, placing signs, and related activities—comprises by far the greatest proportion of candidates’ campaign efforts. But when I [compared](#) the behavior of candidates who accepted Clean Elections subsidies to candidates who raise money from private sources only (after doing a bit of matching), I found that because they spend no time raising money, Clean Elections candidates devote significantly more effort—about 10 percentage points of their overall time—to direct engagement with voters and groups compared to traditional candidates. Moreover, as shown in the chart below, the effect of public money on campaign time is present only for candidates who take the full funding (with matching funds) challenged in *McComish*, and not smaller partial subsidies like those available in Minnesota, Wisconsin, and Hawaii:



When this effect is projected over dozens of campaign weeks, it is safe to conclude that Clean Elections candidates are making hundreds of voter contacts that would not have otherwise occurred. In the same paper, I find reasonably strong evidence that when a publicly funded candidate is present in a given legislative district, increased interaction with citizens leads to fewer people “rolling off” (abstaining from voting) in state house elections. Finally, while we cannot say for certain whether public funding has diminished the influence of large organized interests in government, if participating candidates focus on voters because they can ignore donors, it seems safe to conclude that Clean Elections probably has done no harm.

No campaign finance system is perfect. However, while the petitioner’s argument in *McComish* rests on the narrative of a handful of candidates, almost all of the available empirical evidence refutes the story of “chilled speech” in Clean Elections systems. To the contrary, political scientists have consistently found that Clean Elections leads to a different, voter-focused sort of campaign, and it has historically enjoyed the support of a substantial majority of citizens where it exists. Clean Elections cannot eliminate all “problems” in state elections, and there is still [much](#) that we do not know for certain about its effects. But it is hard to argue that the effects we *have* observed—greater interaction between candidates and voters, more competition, and reduced risk of corruption—are anything but improvements over the state of elections in much of America.

The *McComish* case presents an excellent opportunity for political science to inform the judiciary. I hope that the justices will reach their decision based upon the evidence that we have provided them, rather than the anecdotal claims of a few candidates.