

Dan Rather Reports

Episode Number: 536

Episode Title: Here Comes the Cash

Description: A look at special interest money and its effect as millions of dollars pours into two political races in the Midwest. Republican and Democratic candidates are being hammered by advertising funded far from their home states.

TEASE:

DAN RATHER (VOICE OVER)

TONIGHT... CAMPAIGNS AWASH IN CASH... SOME OF IT SECRET CASH.... AFTER THE MOST EXPENSIVE MIDTERM ELECTION IN U.S. HISTORY, SOME SAY THEY'RE OUT OF POWER BECAUSE THEIR SEAT WENT TO THE HIGHEST BIDDER.

RUSS FEINGOLD, U.S SENATOR

What's happened in this race is really obscene. This is an attempt to buy this seat from outside of Wisconsin.

RATHER (VOICE OVER)

AN IMPORTANT REPUBLICAN SAYS THE PROBLEM IS THAT WE HAVE TOO MANY RESTRICTIONS ON POLITICAL SPEECH, NOT THAT WE HAVE TOO FEW.

BEN GINSBURG, PARTNER AT PATTON BOGGS, LLP

As long as you're going to restrict candidates and parties and what they can raise and have corporations and unions allowed to raise unlimited funds, you're gonna have a terrible imbalance.

RATHER (VOICE OVER)

AND THOSE WHO FOLLOW THE CASH SAY, THE WORST IS YET TO COME.

DAVE LEVINTHAL, EDITOR, OPENSECRETS.ORG

You think it's wild now, wait a couple of months. Wait half a year. Wait until Presidential candidates are running across the country.

RATHER (VOICE OVER)

WE'LL BRING YOU THE NEWS... TONIGHT ON DAN RATHER REPORTS.

SENATOR FEINGOLD:

RATHER (ON CAMERA)

GOOD EVENING. FOUR BILLION DOLLARS. THAT'S WHAT WAS SPENT ON THE 2010 CAMPAIGN. IT'S A RECORD FOR A MIDTERM ELECTION. BUT THIS YEAR, MORE THAN EVER, A LOT OF THAT MONEY WASN'T SPENT BY THE CANDIDATES OR THE DEMOCRATIC PARTY, OR THE REPUBLICAN PARTY.

INSTEAD A LOT OF IT CAME FROM SO-CALLED SOCIAL WELFARE ORGANIZATIONS CREATING THEIR OWN AGENDAS AND STRATEGIES FOR OUR DEMOCRACY. IT'S A NICE-SOUNDING NAME THAT CONCEALS AN UNCOMFORTABLE TRUTH: WE DON'T KNOW WHO'S BEHIND THEM. CORPORATIONS, UNIONS, SPECIAL INTEREST GROUPS, WEALTHY INDIVIDUALS... MUCH OF THE MONEY SIMPLY CAN'T BE TRACED. THERE IS NO TRANSPARENCY.

THESE GROUPS HAVE BEEN AROUND FOR A WHILE, BUT NOW THEY CAN DO THINGS THEY NEVER COULD BEFORE, THANKS TO A RECENT FREE-SPEECH DECISION BY THE UNITED STATES SUPREME COURT. IT'S CALLED CITIZENS UNITED AND THE DECISION LETS THESE GROUPS -- CORPORATIONS, UNIONS, OTHER SPECIAL INTERESTS -- SPEND AS MUCH AS THEY WANT DIRECTLY ADVOCATING FOR OR AGAINST CANDIDATES FOR OFFICE.

TONIGHT AN INVESTIGATION INTO THE MEANING OF WHAT SOME SAY IS THE MOST CONTROVERSIAL SUPREME COURT CASE IN YEARS -- THE SECRET MONEY AND HOW THE COURT DECISION PLAYED OUT ON THE GROUND IN CAMPAIGNS ACROSS AMERICA.

WOMAN IN CAMPAIGN AD

Our economy is reeling and Congressman Ciro Rodriguez is making it worse...

RATHER (VOICE OVER)

IN THE FINAL WEEKS OF THE CAMPAIGN, VOTERS WERE INUNDATED WITH ADS LIKE THESE.

WOMAN IN CAMPAIGN AD

North Dakota's economy is reeling. Indiana's economy is reeling. Ohio's economy is reeling -- Tennessee's economy is reeling...

RATHER (VOICE OVER)

THE NAMES AND STATES WERE DIFFERENT, BUT THE MESSAGE WAS THE SAME.

WOMAN IN CAMPAIGN AD

Congressman John Boccieri is making it worse. Congressman Jim Oberstar is making it worse. Congressman Earl Pomeroy is making it worse.

RATHER (VOICE OVER)

IT WAS A CLEAR SIGN THAT OUTSIDE GROUPS WERE POURING MONEY INTO RACES ACROSS THE COUNTRY.... FOR REPUBLICANS AND DEMOCRATS. UNIONS, CORPORATIONS, POLITICAL ACTION COMMITTEES, ALL KINDS OF SPECIAL INTEREST GROUPS. THESE WERE COORDINATED NATIONAL STRATEGIES -- TOTALLY SEPARATE FROM POLITICAL PARTIES AND THE CANDIDATES THEMSELVES.

MAN IN CAMPAIGN AD

What's happened to Russ Feingold? 18 years in Washington has affected him. What's happened to Michael Bennett? After only 18 months in Washington, he acts like he's been there forever.

RATHER (VOICE OVER)

THESE ADS TARGETED TWO SENATORS FROM TWO DIFFERENT STATES.

MAN IN CAMPAIGN AD

Michael Bennett - he's already been in Washington too long. Russ Feingold - 18 years in Washington is enough.

RATHER (VOICE OVER)

THE CASE OF WISCONSIN DEMOCRATIC SENATOR RUSS FEINGOLD COMES WITH ITS OWN HEAVY DOSE OF IRONY.

RUSS FEINGOLD, U.S SENATOR

People think all of those people that voted in the Obama election aren't going to vote. They're wrong.

RATHER (VOICE OVER)

OUTSIDE GROUPS SPENT ALMOST TWO MILLION DOLLARS TO DEFEAT A POLITICIAN WHO PERHAPS IS BEST KNOWN FOR TRYING TO TAKE MONEY

OUT OF POLITICS WITH THE LANDMARK 2002 MCCAIN-FEINGOLD CAMPAIGN FINANCE REFORM BILL. WE CAME TO WISCONSIN TWO WEEKS BEFORE ELECTION DAY TO SEE WHAT THE NEW REALITIES OF MONEY AND POLITICS MEANT FOR CANDIDATES LIKE RUSS FEINGOLD.

FEINGOLD

This race, of course, is at least a dead heat and we are moving in the right direction.

RATHER (VOICE OVER)

FEINGOLD HAD BEEN TRAILING IN THE POLLS FOR MONTHS, BUT THE DAY WE ARRIVED; A NEW POLL WAS RELEASED SHOWING THE RACE TO BE NECK-AND-NECK. THE SENATOR WAS FURIOUSLY CRISS-CROSSING THE STATE MAKING OUTSIDE MONEY A SIGNATURE ISSUE OF THE CAMPAIGN.

FEINGOLD

This Senate seat cannot be bought; it has to be earned, let's go out and start earning it now by starting the voting right now! Thank you very much.

RATHER (VOICE OVER)

FEINGOLD HAD COME TO DEFINE A CERTAIN TYPE OF LIBERAL MIDWESTERN POPULISM. HE PUSHED FOR GREATER REGULATION OF BIG BUSINESS AND WALL STREET. HE OPPOSED NAFTA.

FEINGOLD SUPPORTER

Thank you for your vote against the Patriot Act.

RATHER (VOICE OVER)

AND HE BECAME A TOP TARGET FOR REPUBLICANS.

ANNOUNCER IN CAMPAIGN AD

He used to stand up to Washington politicians. These days he stands with them.

RATHER (VOICE OVER)

THE U.S CHAMBER OF COMMERCE ALONE SPENT 750 THOUSAND DOLLARS GOING AFTER FEINGOLD AND ATTACKING HIS MAVERICK IMAGE. THE MONEY THESE OUTSIDE GROUPS SPENT MOSTLY WENT TO TELEVISION ADS.

ANNOUNCER IN CAMPAIGN AD

The U.S. Chamber is responsible for the content of this advertising.

RATHER (VOICE OVER)

THE QUESTION, ACROSS WISCONSIN, AND ACROSS THE COUNTRY, WAS DO THESE ADS REALLY WORK? WAS ALL THIS OUTSIDE MONEY SWAYING VOTES? MANY PEOPLE WE TALKED TO IN WISCONSIN SAID NO.

KEN ULLSPERGER

You dread the commercials anyway, right? But now it's just like you know you're going to hear it and it's the same ones over and over and over again.

ANNE ULLSPERGER

Come on in.

RATHER (VOICE OVER)

KEN AND ANNE ULLSPERGERS LIVE IN THE COMFORTABLE MILWAUKEE SUBURB OF WAUWATOSA. KEN IS A SOFTWARE ENGINEER; ANNE IS STAYING HOME TO TAKE CARE OF THEIR TWO YOUNG CHILDREN. THEY THINK THEY'VE NOTICED A SHARP UPTICK IN ADS -- AND THEY'RE RIGHT. COMPARED TO THE LAST MIDTERMS IN 2006, THE NUMBER OF CAMPAIGN ADS IN THIS PART OF THE STATE HAS ALMOST TRIPLED - PRICE TAG OVER 13 MILLION DOLLARS AND MANY WERE PAID FOR BY OUTSIDE GROUPS.

KEN ULLSPERGER

It just seems like for the last few election cycles they've been getting more and more, and this one has been out of control.

RATHER (VOICE OVER)

AND THEY NOTICE WHO'S PAYING -- SOMETIMES.

KEN ULLSPERGER

A lot of times it's some random PAC with a nice-sounding name like Citizens For Voting Truth... what is that? You know, who are you?

BEER AD

Watch this! Milwaukee Mayor Tom Barrett!

RATHER (VOICE OVER)

THIS AD GOT A LOT OF ATTENTION. IT ATTACKED THE DEMOCRATIC CANDIDATE FOR GOVERNOR AND LOOKED LIKE IT WAS FILMED IN A BAR IN WISCONSIN. BUT SAVVY VIEWERS NOTICED SOMETHING WASN'T RIGHT ON THE TAP -- ONE BEER - BLUE POINT - IS NOT DISTRIBUTED IN WISCONSIN.

KEN ULLSPERGER

Wisconsin people, they know their beer. I could see myself not voting for someone just because their ad annoys me so much.

RATHER (VOICE OVER)

AND THE DEMOCRATS HOPED TO USE THAT VOTER DISGUST TO SCORE POLITICAL POINTS. IT STARTED JUST AFTER THE CITIZENS UNITED SUPREME COURT DECISION, IN PRESIDENT OBAMA'S STATE OF THE UNION ADDRESS.

PRESIDENT BARACK OBAMA

With all due deference to separation of powers, last week the Supreme Court reversed a century of law, that I believe will open the floodgates to special interests, including foreign corporations, to spend without limit in our elections.

RATHER (VOICE OVER)

THE ATTACKS STRUCK A CHORD WITH THE ELECTORATE. A POLL A MONTH LATER FOUND EIGHTY PERCENT "DISAGREED" WITH THE DECISION. EVEN THOUGH LAW SCHOLARS LIKE HEATHER GERKEN AT YALE DOWNPLAY THE RULING'S SIGNIFICANCE.

HEATHER GERKEN, J. SKELLY WRIGHT PROFESSOR OF LAW AT YALE LAW SCHOOL

I think it's fair to say that the left has exaggerated what *Citizens United* mean. I mean, they-- they took this decision and they ran with it. They haven't been able to get any traction at all on campaign finance reform in years. And somehow, this decision captured the imagination of the American people. And so, they're using it. They're riding it for all its worth. They're using it as a stand-in for a set of problems that are much more complicated, and go much farther back than *Citizens United*. So, you know, it's politics they're playing.

RATHER (VOICE OVER)

WITH A SENTIMENT LIKE THAT, YOU MAY THINK THAT PROFESSOR GERKEN OPPOSES CAMPAIGN FINANCE REFORM. BUT IT'S JUST THE

OPPOSITE. SHE'S A LEADING SCHOLAR OF ELECTION LAW WHO WAS ON OBAMA'S TEAM DURING THE 2008 CAMPAIGN.

RATHER

Senators McCain and Senator Feingold tried to address campaign finance reform in the early part of the 21st century. What problem was McCain-Feingold trying to solve?

GERKEN

So, McCain-Feingold had-- there were two kinds of problems that they were trying to solve. And the first was that there were vast amounts of corporate money that was swishing around in the political system, through loopholes. So, they wanted to shut those loopholes down. And the second thing they wanted to do is they wanted to make the process transparent, so that you could keep track of the money as it went through. It didn't address all the problems, so it wasn't as if it cleaned up our entire campaign finance system all at once, but it did fix the problems that it set out to fix, until the court began to gradually unravel those provisions.

RATHER (VOICE OVER)

MCCAIN-FEINGOLD WAS A BIG DEAL -- THE MOST AMBITIOUS ATTEMPT TO CHANGE ELECTION LAW SINCE WATERGATE IN THE EARLY 70s. IT WAS A RARE BI-PARTISAN SUCCESS, JOINING TWO SENATORS WHO USUALLY FOUND THEMSELVES ON THE OPPOSITE SIDE OF THE POLITICAL DIVIDE. THE CITIZENS UNITED CASE STRUCK DOWN A PART OF THIS LAW UNDER WHAT THE SUPREME COURT SAID WAS THE FIRST AMENDMENT RIGHT OF FREE SPEECH.

MALE VOICE

Ruthless. Vindictive.

ANN COULTER

Venal. Sneaky. Liar is a good one.

RATHER (VOICE OVER)

THIS WAS THE HEART OF THE CASE. A SELF-DESCRIBED CONSERVATIVE NON-PROFIT CORPORATION, CALLED CITIZENS UNITED, PRODUCED A VIDEO ATTACKING HILLARY CLINTON BEFORE THE 2008 PRESIDENTIAL PRIMARIES. THE FEDERAL ELECTION COMMISSION SAID IT VIOLATED MCCAIN-FEINGOLD'S PROHIBITION ON DISTRIBUTING VIDEOS THAT MENTION CANDIDATES FEWER THAN 30 DAYS BEFORE A PRIMARY ELECTION. THE SUPREME COURT, HOWEVER, SAID NO. IT WAS FREE SPEECH PROTECTED BY THE FIRST AMENDMENT.

GERKEN

Citizens United was a case about corporations. And what they could or couldn't do in funding ads about politicians. And so, before Citizens United, corporations were not allowed to fund an ad that said vote against Senators X or Senator Y. And Citizens United held that that violated the Constitution, that there was no reason under the First Amendment that corporations shouldn't be able to spend as they wanted to, provided that they weren't coordinating it with a campaign.

RATHER (VOICE OVER)

BUT PROFESSOR GERKEN SAYS THE SUPREME COURT HAS BEEN CHIPPING AWAY AT MCCAIN-FEINGOLD FOR YEARS.

GERKEN

And Citizens United, along with several decisions that were made earlier in-- since 2000, has gradually killed McCain-Feingold through death with 1,000 cuts. So, it's been very subtle; it's been very quiet. I suspect the court was quite surprised to see that Citizens United generated so much heat, because they've been-- they've been-- tearing away a little bit by little bit-- at the campaign finance rules up until now, and no-one ever noticed. And then, suddenly, one case they've got 80 percent of the American people to think it's a mistake.

RATHER (VOICE OVER)

A MISTAKE -- THAT'S A MESSAGE DEMOCRATS HAVE BEEN EAGER TO GET OUT. WITH THE MOST CAUTIOUS ESTIMATES PUTTING PRO-GOP SPENDING FROM OUTSIDE GROUPS AT TWO-TO-ONE IN THIS ELECTION SEASON OVER SUPPORT FOR DEMOCRATS, IT'S NOT SURPRISING THAT DEMOCRATIC POLITICIANS WOULD TRY TO COUNTER THE EFFECT BY MAKING AN ISSUE OF OUTSIDE SPENDING ITSELF.

FEINGOLD

You know my opponent has not only run the most ads of any candidate in the country, he's had over two million dollars of these attack ads made possible by the lousy decision of in Citizens United. Two million dollars just against me!

RATHER (VOICE OVER)

FEINGOLD MADE A POINT OF ASKING PROGRESSIVE OUTSIDE GROUPS NOT TO SPEND ANY MONEY ON HIS BEHALF BECAUSE OF HIS BELIEF THAT SUCH MONEY IS CORRUPTING. HIS CAMPAIGN RAISED MORE FUNDS FROM INDIVIDUALS THAN THAT OF HIS REPUBLICAN OPPONENT, RON JOHNSON. BUT JOHNSON HAD THE ADVANTAGE OF OUTSIDE GROUPS' BUYING ADS.

FEINGOLD

I have none of those ads. So this is an attempt to buy this seat from outside of Wisconsin and we're standing up for Wisconsin by funding our race mostly by individual contributions and certainly everything is disclosed.

RATHER (VOICE OVER)

FEINGOLD WAS HOPING TO USE HIS CAMPAIGN TO PROVE THAT BIG MONEY ISN'T EVERYTHING. HE SAID OVER AND OVER AGAIN THAT PEOPLE ARE GOING TO STICK WITH WHAT THEY LIKE -- AND THAT THEY LIKED HOW HE REFUSED TO SUCCUMB TO THE WASHINGTON MONEY-GAME.

FEINGOLD (AT RALLY)

I wasn't second, I wasn't third, I wasn't fourth, out of a hundred senators I was named the number one enemy of the Washington lobbyists! The number one enemy!

RATHER (VOICE OVER)

IT'S BEEN FEINGOLD'S RALLYING-CRY FOR YEARS, AND THE CITIZENS UNITED DECISION ADDED MORE FUEL TO HIS FIRE.

FEINGOLD

For a hundred years we didn't allow corporations to spend their corporate treasuries to affect elections, and because of a very bad Supreme Court decision, that's happening. What do these interests want? They want to overturn the health insurance law, and take away people's abilities to control their own health insurance; they want to protect companies like BP, who should be held responsible. It's not just TV ads, it's TV ads that buy power and that control Washington. It is one of the worst decisions in the history of the Supreme Court. It says that corporations are the same as the rest of us. And they're not. Thanks, everybody!

RATHER

I hear from the Democratic side quote, selling out democracy, handing elections to the corporations.

BEN GINSBERG, PARTNER AT PATTON BOGGS, LLP

Yeah, that's an interesting-- it's an interesting analysis that-- that I think misses the point and misses the perspective.

RATHER (VOICE OVER)

BEN GINSBERG IS A PROMINENT POLITICAL AND LEGAL THINKER, WHO'S ALSO A MAJOR POWER BROKER IN WASHINGTON. HE'S A LAWYER TO BOTH THE REPUBLICAN PARTY AND GROUPS LIKE KARL ROVE'S CROSSROADS GPS THAT SPENT SO MUCH MONEY ON BEHALF OF GOP CANDIDATES. HE ALSO BELIEVES THAT THE CITIZENS UNITED DECISION WAS NOT THE WATERSHED IT'S MADE OUT TO BE.

GINSBERG

I think the Supreme Court decision, again, does not change the basic dynamic. What it does is provide a new-- a new toy under the Christmas tree for groups of both the left and the right to use. But what Citizens United did, in terms of the speech that has always been unlimited, was the words you could use. You can now say "elect or defeat" instead of "call Senator Smith and tell him he's doing a terrible job." That's the distinction from Citizens United.

RATHER

Well, I think-- and correct me if you have a different view or tell me if you have a different view, that the fear-- that's growing-- among no small amount of people is that a corporate plutocracy is now unbridled-- to severely damage, if not ruin, our democracy.

GINSBERG

Well, I-- I think that the system as it is now, because of the inability of parties and candidates to compete with the special interest groups is out of whack. I mean, I think that's a fair point. But the problem is not Citizens United that allows free speech which, after all, is one of the-- the basic, fundamental principles of our country. I'd suggest that the problem that's-- that's now caused is by having the limits and restrictions on the candidates and the political parties.

RATHER (VOICE OVER)

SO THE PROBLEM, ACCORDING TO GINSBERG, IS THE STRANGE PATCHWORK OF RULES LEFT BY THE SUPREME COURT AFTER YEARS OF PICKING AWAY AT MCCAIN-FEINGOLD -- THE PROBLEM, HE SAYS, IS LIMITS ON CONTRIBUTIONS TO PARTIES, AND CANDIDATES DIRECTLY, STILL EXIST, WHILE LIMITS ON OUTSIDE SPENDING, INCLUDING MONEY THAT CAN'T BE TRACED, HAVE BEEN STRUCK DOWN.

GINSBERG

What you had before McCain-Feingold was the parties performing the role that they can no longer perform, in which special-interest groups all across the political spectrum are now performing. As long as you're going to restrict candidates and parties and what they can raise and have corporations and unions allowed to raise unlimited funds, you're gonna have a terrible imbalance.

GERKEN

So, it is true that when you take-- campaign finance apart piece by piece, you end up leaving a structure in place that wasn't at all what people intended.

RATHER (VOICE OVER)

AGAIN, YALE PROFESSOR AND DEMOCRATIC LEGAL ADVISOR HEATHER GERKEN.

GERKEN

But to say now we should just unleash the-- the hounds, and let money-- flow back to the system the way it did in the old days completely misses why there are regulations for candidates and parties. Which is it is the most direct way to corrupt. When you're talking about the elections arena, there's a set of interests on the other side which are just as important to our democracy as free speech. And the question is, "can we have both." Can we make sure that everyone's ideas get out there, without having a system where-- politicians feel the need to toe the line that corporations draw, because of the influence of money on the system?

RATHER (ON CAMERA)

YALE LAW PROFESSOR HEATHER GERKEN. WHEN WE RETURN, ANOTHER PERSPECTIVE -- FROM AN OUTSPENT REPUBLICAN. SO STAY HERE WITH US.

OHIO'S 16TH ACT 2:

RATHER (VOICE OVER)

OHIO'S 16th CONGRESSIONAL DISTRICT SITS IN THE NORTHEASTERN PART OF THE STATE - A PATCH OF STRUGGLING FARM-TOWNS AND ABANDONED FACTORIES JUST SOUTH OF CLEVELAND. ITS BIGGEST CITY IS THE OLD INDUSTRIAL TOWN OF CANTON - BEST KNOWN AS THE HOME OF THE PRO FOOTBALL HALL OF FAME. FOOTBALL'S BIG IN THESE PARTS AND FRIDAY NIGHTS IN AUTUMN ARE ALL ABOUT HIGH SCHOOL RIVALRIES PLAYING OUT ON THE GRIDIRON.

MAN

Let's go Hillsdale. Go Renacci. Go Hillsdale.

RATHER (VOICE OVER)

BUT THIS FALL, THERE WAS A FIERCE COMPETITION TAKING PLACE OFF THE FIELD.

MAN

We'll help you guys out.

MAN

There you go. Thanks!

RATHER (VOICE OVER)

IN 2008 THIS DISTRICT WENT FROM A REPUBLICAN REPRESENTATIVE TO A DEMOCRAT. NOW, A REPUBLICAN CANDIDATE, JIM RENACCI WAS HOPING TO TURN IT BACK FROM TEAM BLUE TO TEAM RED.

JIM RENACCI

How you doing? Jim Renacci - I'm running for Congress. Jim Renacci. Very nice to meet you. Hope to earn your vote...

WOMAN

Oh you'll have my vote.

RENACCI

Appreciate it.

MAN

Mr. Renacci?

RENACCI

Very nice to see you.

MAN

Good luck on Tuesday.

RATHER (VOICE OVER)

DESPITE THE SMALL TOWN FEEL... THE RACE HERE IS MUCH BIGGER THAN IT APPEARS. FOR BOTH NATIONAL POLITICAL PARTIES AND FOR CORPORATIONS AND UNIONS, IT IS HUGE -- 7 MILLION DOLLARS. BEYOND THE HANDSHAKES AND HUGS ON FRIDAY NIGHTS, IS WHAT YOU DON'T SEE UNTIL YOU TURN ON YOUR TV. IT'S A TELEVISION ADVERTISING TSUNAMI. BIG OUTSIDE INTERESTS, FAR FROM OHIO, HAVE BEEN

POURING IN AD DOLLARS HERE... TEARING THE CANDIDATES LIMB FROM LIMB...

MAN IN AD

Jim Renacci cheated on his income taxes. Renacci hid 13 million dollars.

RATHER (VOICE OVER)

AND IN A TWIST... LIBERAL OR PROGRESSIVE INTEREST GROUPS OPERATING OUTSIDE OF THE CANDIDATE AND EITHER PARTY APPARATUS HAVE OUTSPENT CONSERVATIVES IN THIS CORNER OF OHIO BY TWO TO ONE -- THE EXACT OPPOSITE OF THE OUTSIDE-MONEY TREND NATIONWIDE. OHIO'S 16 TH CONGRESSIONAL DISTRICT TURNED OUT TO BE THE RIGHT DISTRICT IN THE RIGHT STATE AT THE RIGHT TIME.

RENACCI

Nobody has been more subject to outside money than myself. They've been -- there've been ads on TV since August, and it's all outside money coming in from the unions and everywhere else.

RATHER (VOICE OVER)

BUT RENACCI'S CAMPAIGN BELIEVES THAT THE CITIZENS UNITED DECISION FIRMLY UPHOLDS THE RIGHT TO FREE SPEECH. RENACCI CAMPAIGN MANAGER JAMES SLEPIAN.

JAMES SLEPIAN, CAMPAIGN MANAGER

It's a free country, you've got the First Amendment, and people can say what they want. Political speech is the most protected speech there is. And he respects the court's decision in that case.

RATHER (VOICE OVER)

IT WAS ABOUT A WEEK BEFORE ELECTION DAY AND THE CANDIDATE SAW ALL THE MONEY COMING IN AGAINST HIM AS A SIGN THAT HE WAS WINNING.

RENACCI

Outside groups can come in. They can say half truths but I was also told 11 or 12 months ago that when that starts occurring, you're do-- you're winning. You're doin' the right thing. You know, they want to change the subject.

RATHER (VOICE OVER)

IT'S NOT HARD TO BE GENEROUS WHEN YOU'RE UP IN THE POLLS, BUT WHO ARE THESE GROUPS WORKING SO HARD TO KEEP RENACCI OUT OF WASHINGTON?

SLEPIAN

On the Democrat side, our opposition, it's the usual suspects. It's the big labor unions - AFSCME, SEIU. AFSCME alone has spent over a million dollars against Jim Renacci. They came in early and heavy. They came in in August so they were the first big player here. You've also got the candidate committees, the DCCC, the NRCC have both spent a million dollars in this race.

RATHER (VOICE OVER)

AND THEY PLAYED AS DIRTY AS ANYWHERE. ONE AD TIED RENACCI TO IRANIAN OIL INTERESTS. . .

VOICE FROM CAMPAIGN AD

Renacci actually opposes investing in clean energy here at home.

RATHER (VOICE OVER)

IT WAS PAID FOR BY A GROUP CALLED THE LEAGUE OF CONSERVATION VOTERS THAT OPERATES IN THE SAME MURKY REALM OF ANONYMOUS DONORS AS A LOT OF THE REPUBLICAN OUTFITS THE DEMOCRATS HAVE BEEN RAILING AGAINST.

VOICE FROM CAMPAIGN AD

Say no to Jim Renacci. The American Worker and League of Conservation Voters...

RATHER (VOICE OVER)

IT'S SOMETHING THE SUPREME COURT DIDN'T COUNT ON, ACCORDING TO YALE LAW PROFESSOR HEATHER GERKEN.

GERKEN

I mean, this was Justice Kennedy's great mistake in Citizens United.

RATHER

He's the one who wrote the decision.

GERKEN

He's the one who wrote the decision, and he said, "As long as we have good disclosure rules, this is not a problem because people will be able to evaluate who is speaking. And as long as that's true, then let the marketplace of ideas just thrive as it does everywhere else." What Justice Kennedy didn't realize is that we don't actually have any means of tracing a lot of the money, because the disclosure and disclaimer rules are either weak or nonexistent, and just incredibly easy to get around. And that means we don't know who's speaking when-- for most of the ads that are running-- outside of the party's ads right now.

RATHER (VOICE OVER)

BUT REPUBLICAN LAWYER BEN GINSBERG POINTS OUT -- CORRECTLY -- THAT DESPITE ALL THE HEW AND CRY ABOUT FOREIGN DONORS AND DARK MONEY, ABSOLUTELY NOTHING HAS CHANGED SINCE THE LAST ELECTION CYCLE WHEN IT COMES TO DISCLOSURE RULES. THE SUPREME COURT RULING IN THE CITIZENS UNITED CASE DOES NOT AFFECT DONOR ANONYMITY.

RATHER

Does this court decision make it easier for somebody to give money and never hear their name attached to it?

GINSBERG

No, it's been true. 501(c)'s have been using this, as I say, really since McCain-Feingold was passed and went into effect in the 2004 election. Citizens United does not do that. The reason there's so much more activity this time is not-- not because this wasn't happening before. What Citizens United did was give a clear psychological green light signal to conservative donors that independent expenditures were constitutionally protected. So, now in 2010, with the policies of the Obama Administration being so unpopular, the conservative side is energized and putting money into the process. And the liberal side are sitting on the sidelines a bit more.

RATHER (VOICE OVER)

BUT BACK IN NORTHERN OHIO, JIM RENACCI'S CAMPAIGN MANAGER SAYS OUTSIDE GROUPS BUYING ADS AGAINST HIS CANDIDATE HAVE TARGETED THIS DISTRICT AS PART OF A NATIONAL STRATEGY.

SLEPIAN

Democrats are spending heavily here, as are Republicans, because this is viewed as a bellwether, and as the 16th district goes, the rest of the country goes, and that's how a lot of people view it. There's just a lot of interest in this race, there's a lot at stake here. I think that a lot of people believe that the balance of power in Washington could be determined right here in this district.

RATHER (VOICE OVER)

AND CORPORATIONS AND SPECIAL-INTEREST GROUPS, SOMETIMES GIVING ANONYMOUSLY, HAVE MORE AND MORE INFLUENCE ON THE BALANCE OF POWER IN WASHINGTON. SO WHAT'S THE SOLUTION? YALE LAW PROFESSOR HEATHER GERKEN THINKS THE SUPREME COURT HAS CUT OFF ALL AVENUES FOR TAMING THE MONEY MONSTER, SO SHE PROPOSES A DIFFERENT PATH.

GERKEN

I think it's just a mistake-- for campaign finance reformers to think that we're going to get money out of the system. We're not. So, the question is, what can you do to harness money to make it work for democracy. So, what's the problem now? People are after the big money and the big donors. And the only-- and we can't stop that, because the Supreme Court has told us we can't stop that. So, what I would tell him to do is to create something like a matching scheme. Where you say to a small donor, if you give \$100, we'll match it by eight.

RATHER

We being what? The federal government?

GERKEN

We, the Federal government.

RATHER

We the people of the United States.

GERKEN

We the people of the United States will match it, and we'll make that \$800. Because politician's will-- you give them incentives, they'll-- they'll-- they'll pay attention to them. If you-- if-- if there's money in small voting, they'll go find that money. And so, let's put some more incentives in the right direction rather than sending them off to where they're going now, which is the big money and big donors.

GINSBERG

I think the idea of a comprehensive system that amounts to food stamps for politicians is not gonna come in the current political environment, to be charitable about the-- the idea. I think the-- the way to deal with the current imbalance is to strengthen the political parties by allowing them to take-- much more money, really from any source, have it fully reported and let the parties fund the candidates. Because if the candidates have enough money to speak and get out their message then the voids that have been created

by McCain-Feingold can be filled by the candidates and parties and not the special interest groups, which is what you have now.

RATHER

In effect, you're saying, "Repeal-- McCain-Feingold?"

GINSBERG

Absolutely. It's-- yeah, I think it's had a tremendously damaging effect on our political process, which is exactly the angst that you're askin' me about.

RATHER

Well, as we sit here today and we consider the Supreme Court decision, what are you most worried about going forward? Is it the demise of the political parties as we've known it?

GINSBERG

Well, it's the demise of the political parties because of what that means on-- on really the governance of the country. What you have been able to say about the political parties in the past is that they are big tents, but that each one has something of a unified theory for governing. As the parties weaken, candidates for office will go off much more as their own independent agents. And the effect of that will be that if you are a savvy special interest group, you will look not at whether somebody is Republican or Democrat. It's whether they agree with you on your issue. So you will be creating a whole cadre of single interest candidates, as opposed to ones who have some sort of loyalty to the broad governing philosophies of one of the two parties. And that's not a particularly good prescription for legislative-- harmony in the country.

RATHER (VOICE OVER)

AND THAT BRINGS US BACK TO WISCONSIN, WHERE A ONCE BELOVED SENATOR WHO MADE A NAME FOR BUCKING THE ESTABLISHMENT WAS FINDING HIMSELF IN THE FIGHT OF HIS POLITICAL LIFE. MAYBE SENATOR FEINGOLD WAS LOSING BECAUSE OF ALL THE ADS FUNDED BY OUTSIDE MONEY, OR MAYBE IT WAS BECAUSE HIS POLITICS HAD FALLEN OUT OF FAVOR. THE ECONOMY IN WISCONSIN, LIKE MANY OTHER PARTS OF THE COUNTRY, IS BAD. WISCONSIN IS NEAR THE BOTTOM IN THE CREATION OF NEW COMPANIES, AND IN RURAL AREAS, MANY TALKED ABOUT A SENSE OF UNEASE.

WOMAN IN DINER

And where are our jobs here in the United States? We don't have any. Where do they think we're ever going to recover on these jobs, we're not.

RATHER (VOICE OVER)

WE MAY NEVER KNOW WHETHER ADS PAID FOR BY OUTSIDE GROUPS REALLY AFFECTED THE VOTERS' DECISION IN WISCONSIN, AND IF SO, BY HOW MUCH. FEINGOLD FACED MUCH MORE OUTSIDE MONEY AND WON IN 1998 -- BUT ACCORDING TO HIM, THE CITIZENS UNITED DECISION WAS A MAJOR BLOW TO HIS CANDIDACY AND TO AMERICAN ELECTIONS.

FEINGOLD

We recognize that you have to have a certain amount of money in order to get your message out both in terms of volunteers and setting up offices and some television ads. But what's happened in this race is really obscene.

RATHER (VOICE OVER)

THAT WAS AT 7 AM ON ELECTION DAY, A BRIEF MOMENT OF CALM BEFORE THE FRANTIC GET-OUT-THE-VOTE EFFORTS REACHED FULL SPEED.

FEINGOLD

My friends, the people of Wisconsin have spoken and I respect their decision.

RATHER (VOICE OVER)

AND THEN THE VOTERS HAD THEIR SAY. AT THE END OF THE NIGHT, A VETERAN DEMOCRATIC SENATOR WOULD BE RETURNING TO PRIVATE LIFE.

FEINGOLD

It's on to the next fight!

CROWD

Feingold!

FEINGOLD

It's onto the next battle. It's on to 2012!

RATHER (VOICE OVER)

A FEW STATES AWAY IN OHIO, REPUBLICAN BUSINESSMAN JIM RENACCI WOULD BE HEADING TO WASHINGTON.

RENACCI

What a great day in America.

RATHER (VOICE OVER)

TWO CANDIDATES, TWO STATES. ONE SUPREME COURT WATERSHED --
OR, MAYBE NOT.

FEINGOLD

Forward!!

RATHER (VOICE OVER)

RUSS FEINGOLD OF WISCONSIN WAS A LIBERAL DEMOCRAT RUNNING
DURING A REPUBLICAN LANDSLIDE. HE WAS OUTSPENT AND HE LOST.
JIM RENACCI OF OHIO WAS A REPUBLICAN RUNNING DURING A
REPUBLICAN LANDSLIDE. HE WAS OUTSPENT AND HE WON. IN THE WAKE
OF THESE ELECTIONS, THERE'S BEEN A LOT OF REPORTING ABOUT WHAT
ALL THIS MONEY MEANS. GINSBERG THINKS MOST OF IT HAS MISSED THE
POINT.

RATHER

Let's talk about the press. In your judgment, your opinion, what is-- one mistake you
think the press most often makes when it comes to reporting about the issue of campaign
finance?

GINSBERG

I think the press is perfect all the time.

RATHER

All right, that's a wrap. No, but we-- we make our mistakes. But-- yo-- what-- what's the
biggest mistake the press makes when it comes to campaign finance, reporting on it?

GINSBERG

I'm not even sure how to articulate it. It's-- it's-- it's sort of-- it's sort of not understanding
all the moving pieces on the field. It's seeing it from I guess their perspective, which just
happens to be awfully different from my perspective. I mean, I think the questions
you've asked today are coming at this very much from the point of view of-- of
corporations, big money, very, very bad. In reality-- that is more voices being heard in
the marketplace of ideas and the debate. If I were to-- to try and flip that around and say,
"Gee, maybe there are too many media voices"-- there would be an explosion. It ought to
be a tenet of the First Amendment that speech is good. And the press certainly feels that
as it pertains to themselves, but doesn't seem to recognize it as much in this area.

RATHER (VOICE OVER)

BUT PROFESSOR HEATHER GERKEN SAYS THAT WHEN SOME SPEAKERS HAVE A BIGGER BULLHORN, DEMOCRACY CAN GET DISTORTED.

GERKEN

My field is entirely about election process. It's about how we draw district lines, it's about how we regulate where money goes in the system. And these are the kinds of things that are very hard to explain to people why they matter. It's several steps removed from what people actually care about, which is the economy, health care, jobs. And what they don't-- they don't see is we have a system that really caters to corporations. It's not just in campaign finance; it's also in the lobbying process. Very powerful interests have a lot more access to Congress than the American people themselves do. And that's a big deal. And it-- it affects all the laws that get passed. It's the loophole in the tax code. It's the regulations that aren't as strong as they should be. If I could convey one lesson to people, it would be that actually the process stuff really matters for the substance of our laws. And-- and we ought to think more about that fact.

RATHER (VOICE OVER)

PROCESS MATTERS. ON THAT POINT, GINSBERG COULD NOT BE MORE IN AGREEMENT. BUT THE PATH TO THE BEST PROCESS LOOKS VERY DIFFERENT FROM WHERE HE'S SITTING.

GINSBERG

So, if you wanna correct this angst about corporations taking over our political process, which I think is misplaced, but if you wish to correct that the answer to it is not to restrict the free speech of one group 'cause you don't like it -- in this case, corporations. It's to increase the ability of candidates and political parties to speak, which has been suppressed by the erstwhile reforms of the past 35 years.

RATHER (ON CAMERA)

REPUBLICAN LAWYER BEN GINSBERG. ALL THIS MONEY AND ALL THESE ADS ARE HAVING AN EFFECT AT LEAST ON WHAT YOU SEE ON TELEVISION. SOME LOCAL TELEVISION STATIONS ACROSS THE COUNTRY HAD SO MANY POLITICAL ADS, THEY BUMPED THEIR USUAL CONSUMER RELATED FARE.

UP NEXT ON OUR PROGRAM, THE LEADER OF A GROUP DEVOTED TO FOLLOWING THE CAMPAIGN MONEY. YOU'LL WANT TO HEAR WHAT HE HAS TO SAY.

OPEN SECRETS ACT 3:

RATHER (ON CAMERA)

WELCOME BACK. NO DOUBT THIS PAST ELECTION PRODUCED SOME BIG NUMBERS. ACCORDING TO THOSE WHO COUNT CASH, OUTSIDE GROUPS SPENT NEARLY 300 MILLION DOLLARS TOTAL ON THE MIDTERM ELECTIONS -- THAT'S OUTSIDE GROUPS. THAT'S ABOUT FOUR TIMES WHAT THEY SPENT IN 2006. BUT WHO SAYS THAT?

A LOT OF PEOPLE, CAMPAIGNS AND THE NEWS MEDIA INCLUDED PUT THEIR FAITH IN A WEBSITE CALLED OPEN SECRETS.ORG. OPEN SECRETS.ORG IS A NON-PROFIT AND THEY SAY A NON-PARTISAN GROUP THAT GATHERS ALL AVAILABLE CAMPAIGN FILINGS AND DIGESTS AND ANALYZES THE DATA ON THEIR WEB PAGE.

THE SITE HAS BECOME THE AUTHORITY IN THE INCREASINGLY MURKY WORLD OF CAMPAIGN FINANCES, ESPECIALLY THE OUTSIDE, SECRET MONEY CONTRIBUTIONS. DAVE LEVINTHAL IS THE EDITOR OF OPENSECRETS.ORG'S BLOG.

DAVE LEVINTHAL, EDITOR, OPENSECRETS.ORG

You can talk about money in general terms, but when you get down to the matter, this kind of money is-- is a certain type of money. It's a very critical type of money, because in politics not all types of money are created equal. Some is gonna go for paperclips and pencils. While others of it is gonna go to tear down a candidate in the most violent of political terms.

RATHER

Well, did the amount of outside money, that's the money that doesn't have to be accounted for impact the outcome of the elections?

LEVINTHAL

We feel that it did. And our preliminary analysis shows that about 2/3rds of the races in which outside money was a factor, the winner of that race received a greater benefit from the outside money than the loser did. That means that either the winner got outside money promoting him or her, or that that person's opponent was receiving more negative advertising against him or her.

RATHER

Well, how did you reach a conclusion that the outside money impacted the 2010 midterms as much as you say it did?

LEVINTHAL

Because we could see in certain races that it had a very demonstrable effect. And perhaps no better example, at least at this juncture, than what happened up in Alaska, during the primaries. A single organization, it was a Tea Party organization called Our Country Deserves Better PAC went in and spent hundreds and hundreds of thousands of dollars in just the final couple of days before that primary was actually waged. And then something happened that almost never happens in politics. A hitherto unknown challenger defeated a Republican incumbent in a partisan primary. That being Lisa Murkowski. Now, in the end she may end up winning the ultimate election, because she ran as a write-in candidate. But at least for that primary the odds of an incumbent being defeated in a primary by a challenger are almost nothing. And yet this organization came in, bought up all the airwaves, spent an incredible amount of money for an Alaska Senate race, and Joe Miller ended up beating Lisa Murkowski by just a hair's breadth.

RATHER

In the Republican primary.

LEVINTHAL

In the Republican primary.

RATHER

Well, why should I care about that?

LEVINTHAL

You should care about it because if you, as a voter, care about who you're electing, you probably wanna know who is supporting the people who are running in a particular election. You probably wanna care about the people who that candidate is associating with. And if you don't have a complete picture, if you don't get a picture in all of its various colors as to who's truly behind that, then you're gonna be limited in your knowledge of who to support. You're gonna be limited in your ability to make an informed decision.

RATHER

But if I'm a member of the Tea Party, let's just take this example. Say, listen, it wasn't the money, so much, it was the idea that people had had a gut full of the way government was operating. It was our policy, if you will, that carried us through to that primary election victory over well-established Republican incumbent. And this business of money, well, the money's always important. We use money like everybody else. But the key thing here is it isn't the money, it's the idea. It's what we stood for. How do you react to that?

LEVINTHAL

Certainly that's a-- valiant-- valid argument to some level. Money is not everything. But money certainly is an important factor in many of these races. You can't get a message out; you can't inform what is a huge American public if you don't have the ability to have a megaphone in front of your mouth. If you're just blowing into the wind, well, nobody's gonna hear you. But if you have the ability to blanket the airwaves, if you have the ability to get your message out to a mass audience, then you're probably going to be a lot more successful at disseminating your message than you would if you're just on the street corner shoutin' at people as they pass by.

RATHER

Right. What about the argument that goes along these lines, "Listen, it's all well and good to talk about big money and secret money. But there's so many variables go into an election, and particularly this 2010 election, that it's a little early and maybe a little much to say that this flood of money actually made a big difference."

LEVINTHAL

We found that in the majority-- roughly 2/3rds and the numbers may change when we get final reports in. But in roughly 2/3rds of instances where this outside money was a factor in a Congressional election, the candidate who benefited from that money, the candidate who was either receiving more positive ads in his or her favor, or more negative ads against his or her opponent, ended up winning. So if it was 50/50, then that might be a valid argument. But the fact that we're seeing a significant majority of candidates winning who were receiving a good bit of outside money is an indication to us that even if this is not the overriding factor in candidates winning and losing, it certainly is among some of the important factors.

RATHER

What's the answer? I mean-- to someone in the living room, again, who says, "God, I hate all this." Whether you're Republican, Democrat, Tea Party or Mugwump. You say, "We can't keep going this way." More and more expensive elections. More and more secret money on all sides going into it. What's the solution?

LEVINTHAL

Well, first, there are two schools of thought to this. There-- there's a camp that says, "Well, this is not necessarily a bad thing." That spending money on politics is tantamount to speech. And that if you have a lot of money you should be able to spend a lot of money on politics to promote the candidate or promote the party that-- that you want to promote. Fair enough.

RATHER

Even if you do it in secret?

LEVINTHAL

Well, that's where we come in. And we say, "Well, that's fine. We don't have a stance, one way or another, on the actual system in place. What we feel is important that-- is that whatever the system is, whatever the rules and regulations are, that transparency is a critical element to it. Because if you don't know who is spending money to advocate for or against politicians, who is bankrolling politicians, then, at the end of the day, you do not know who truly is supporting politicians and who will come with their hand open once a politician gets elected and say, "Remember all those hundreds of thousands or millions of dollars I supported you with? Well, I'd like some payback here."

RATHER

How did the outside money affect the overall tone of the election campaign?

LEVINTHAL

It makes the tone incredibly more negative. It definitely allows for the fueling of attack ads. Ads that are going to try to tear down a candidate-- much more so than promote a candidate. So while this money will definitely go to-- toward the advertisements that promote a candidate-- that-- the lovingly cast them in a-- in a very rosy glow, most of it's going to go toward the mean, nasty, dirty-- some people would-- would-- would say "unscrupulous" advertisements that-- that make this political process as we have it here and now-- probably a lot nastier than it was even just five or ten years ago.

RATHER

Well, now which races attracted the most outside money, and why?

LEVINTHAL

The races that attracted the most outside money tended to-- to be one of two things-- or both. A Senate race, because more media markets, more money. And competitive races, ones where the Democrats definitely had a seat to lose, and the Republicans had a seat to win. Or it was an open seat. So specifically the Nevada Senate race. Harry Reid versus Sharron Angle ended up attracting a considerable amount, eight figures worth of outside money. The Colorado Senate race, where Michael Bennet just won by the skin of his teeth, ended up attracting a heck of a lot of outside money, too. California, Florida-- Connecticut, to a lesser degree.

RATHER

Wisconsin?

LEVINTHAL

Wisconsin did. And-- Illinois did. Missouri did. These are all races that were competitive. That were either open seats or where the challenger was somehow embattled and outside groups-- got a taste in their mouth that, "Hey, we-- we got an opportunity here."

RATHER

Let me ask you-- what are the chances, if you think any, that we in the press and various political entities say the Democratic Party in this election, overstated to the public the effect of this Supreme Court decision?

LEVINTHAL

I don't think there's any overstatement about the effect-- the results are, however, a bit curious. Initially when the *Citizens United* decision came down the thought was that corporations were in fact going to directly inject millions, even tens of millions of dollars of cash--

RATHER

Which they now have a right to do.

LEVINTHAL

Which they do have a right to do, and there are very limited gaz-- examples of where they did do this. But primarily what they ended up doing in the end game was keep that veil of anonymity in place, and take the money that they had and effectively do an end around -- send it through groups that had very, sometimes, innocuous-sounding names, but yet had a very conservative or a very liberal bend to them, and they played politics with it. So, as a practical matter, if you're watching television, if you're listening to the radio, and you heard some ad, "Paid for by Americans for Peace, Love and Joy." Well, you don't know how many Americans are behind that effort. You wouldn't know necessarily whether it was one or a million. You wouldn't know if corporate money or union money is flowing into it. And-- it's sort of as if a message from the heavens was raining down on America and telling you to do something, but you didn't know exactly who that was.

RATHER

Well, we've seen outside groups raise a lot of money anonymously and run attack ads before. That's not something that just happened in 2010. What was different in these mid-term elections about the ability to pour money into a key race that might be close with having negative ads? Or was anything different?

LEVINTHAL

Yeah. The-- the ability to take unlimited contributions from unions and corporations and - and other special interests as well as individuals really just widened that channel of money that could flow into the political system. So we saw a number of groups take advantage of that new regulation. And also the-- the peeling back of-- any time limits-- in which you could have a certain type of message. And there's lots of different very arcane rules and regulations, but the bottom line is that-- that channel was widened, and many, many organizations, particularly conservative organizations, took advantage of those new rules.

RATHER

And true or untrue that the Republicans, for whatever reason, started earlier with more money than the Democrats? There's this theory the Republicans got started back last spring and early summer, and the Democrats really didn't get into high gear until maybe after Labor Day.

LEVINTHAL

They definitely started gearing up earlier. And especially when it came to the outside money that was in play in this race, they absolutely were-- were quicker to the punch-- then the Democrats and the liberal leading groups ever-- could be or hope to be. And what that did in reality is just give them an opportunity to hit harder, hit faster, get involved earlier. And as a result try, at least, to permeate the psyches of Americans, so that they could paint the Democrats as they wanted to paint the Democrats. They could promote the Republican candidates that they were supporting in the way that they wanted to.

RATHER

Now, for Mr. Regular Viewer who says, "Well, sounds to me like the Republicans were more alert-- faster to pick up on how things had changed. Got their act together earlier and better than the Democrats. And so what's wrong with that?"

LEVINTHAL

It's politics. And for a lot of people there's nothing wrong with it. Certainly the Democrats and the Republicans are in constant competition, and sometimes the Republicans are going to be quicker to the punch. Sometimes the Democrats are gonna be quicker to the punch. But what we see right now in the-- just the couple of days after the election has concluded is that Democrats are having some regrets. There was a wonderful story in the *L.A. Times*-- just today, that was talking about how Democratic fundraisers are just kicking themselves over the fact that they weren't quite as aggressive as Republicans were and are now vowing to do the very same things, use the very same techniques that Republicans were using this previous election cycle.

RATHER

And that means for 2012 it's gonna be bigger money, even more money spent, keeping in mind there's \$4 billion, approximately, spent in this mid-term election. There's gonna be more money spent, there's gonna be more secret money, less ability to find out who gave what to whom. And the game just keeps rising.

LEVINTHAL

You think it's wild now, wait a couple of months. Wait half a year. When the Iowa caucuses and the New Hampshire Primaries are in the public consciousness for the first time. Wait until Presidential candidates are running across the country trying to do as much as they can as fast as they can to promote their names. And, of course, by any expectation, you are going to have a very, very competitive Republican primary going ahead to 2012. Plus you have all the Congressional elections that you will have in 2012 on top of it.

RATHER

And that comes into play with a-- not to pick on anybody, with a BP or Exxon or a big pharmaceutical company, or a big television media network. Or a big union.

LEVINTHAL

All of the above. And it doesn't matter if you're a Democrat or a Republican, a liberal or conservative. Both sides do play this game. Now some may have played it better than others this previous election cycle. But certainly as competition will dictate, the other side is gonna be pretty quick to realize that they are on the business end of the situation. And they're going to play catch-up.

RATHER (ON CAMERA)

DAVE LEVINTHAL OF OPENSECRETS. ORG. STRAIGHT AHEAD, NOW, ON OUR PROGRAM -- NEGATIVE ADS ON THE SCREEN LONG BEFORE TELEVISION. SOME HISTORY AND THOUGHTS TO PONDER SO STICK IN HERE WITH US.

OLD "NEWS" ACT 4:

RATHER (ON CAMERA)

AND FINALLY TONIGHT. ATTACK ADS IN AMERICAN HISTORY. THEY'RE REALLY NOTHING NEW. FOR DECADES, THEY'VE BEEN POURING OVER THE TELEVISION AIRWAVES BUT THEY ACTUALLY GOT THEIR START IN THE GLORY DAYS OF HOLLYWOOD CINEMA. AT THE TIME, MANY

AMERICANS GOT THEIR NEWS FROM NEWSREELS -- FILM CLIPS THAT WERE PLAYED BEFORE THE MAIN MOVIE FEATURE.

RATHER (VOICE OVER)

THIS SO-CALLED NEWSREEL WAS FILMED IN 1934 AND WAS BILLED AS AN OBJECTIVE SERIES OF INTERVIEWS WITH CALIFORNIANS WHO WERE ABOUT TO ELECT A GOVERNOR.

CAMERAMAN IN NEWSREEL

Here we are again, ladies and gentlemen, the inquiring cameraman. And we're going to give ourselves a little pat on the back. Our first issue seems to have aroused all California and we found out that some of the politicians don't like our idea at all. They seem to want you to hear only what they have to say...

RATHER (VOICE OVER)

UPTON SINCLAIR, THE AUTHOR AND LEFT-WING FIREBRAND OF THE TIME HAD SURPRISINGLY WON THE DEMOCRATIC NOMINATION. BUT REPUBLICANS, WHO WERE AFRAID HE'D BRING A SOCIALIST AGENDA TO CALIFORNIA AND RAISE THEIR TAXES PULLED OUT ALL THE STOPS FOR THEIR CANDIDATE, FRANK MERRIAM. AND THIS WAS THE RESULT.

MAN

I feel that Sinclair is too radical. I'm an ameri -- I was born and raised in America.

MAN 2

I'm going to vote for Upton Sinclair.

CAMERAMAN

Will you tell us why?

MAN 2

Upton Sinclair is the author of The Russian Government and it worked out very well there and I think it should do here.

CAMERAMAN

Mr. Branson have you decided who you're going to vote for?

MR. BRANSON

Yes, sir. For Upton Sinclair.

CAMERAMAN

Have you any reasons why?

MR. BRANSON

Because I believe he's the best man for the job. I've always been a Socialist and I believe he'll do the best for the people...

MAN 3

First of all, I am American and I believe Mr. Merriam will support all the principles America has stood for in the past hundred and fifty years.

RATHER (VOICE OVER)

ALTHOUGH IT SEEMS MILD BY TODAY'S STANDARDS, WHAT THE AUDIENCE AT THE TIME DIDN'T KNOW WAS THAT ALL THESE SUPPOSED RANDOM INTERVIEWS ARE ANYTHING BUT. THE PEOPLE IN THE FILM ARE REALLY ACTORS WHO WERE HIRED BY MGM AND ITS BOSS, THE LEGENDARY LOUIS B. MAYER, A STAUNCH REPUBLICAN. YOU'LL NOTICE ALL THE WELL DRESSED ARE VOTING FOR THE GOP CANDIDATE WHILE ALL THE LAYABOUTS ARE SUPPORTING SINCLAIR.

RATHER (ON CAMERA)

DID THE AD WORK? WELL, THE REPUBLICAN, FRANK MERRIAM WENT ON TO DEFEAT DEMOCRAT UPTON SINCLAIR. IT'S BEEN 76 YEARS SINCE THAT FILM WAS FIRST PLAYED IN CALIFORNIA MOVIE HOUSES. BUT WITH MILLIONS IN SECRET MONEY FOR THIS YEAR'S CAMPAIGN, IT WOULD BE EASY TO ARGUE THAT MANY VIEWERS TODAY STILL DON'T KNOW WHO'S BEHIND THE NEGATIVE ADS.

AND THAT'S OUR PROGRAM FOR TONIGHT. FROM NEW YORK, FOR HD NET, DAN RATHER REPORTING. GOOD NIGHT.