New Jersey & Its Party System:

A Collection of Columns Extolling the Benefits of Political Parties

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FOR STATE, COUNTY COMMITTEE A MCCAIN-FEINGOLD WINDFALL
02/2003

The legal fight over the constitutionality of the McCain-Feingold law has begun in federal court. A three-Judge panel is hearing arguments by teams of lawyers on both sides of the issue. Regardless of the decision, the case will ultimately be heard by the U.S. Supreme Court.

While not predicting what that decision will be, suppose the Supreme Court overturns *Buckley v. Valeo*, its 1976 decision upholding contribution limits but prohibiting expenditure limits, and finds McCain-Feingold to be constitutional? What then are the ramifications for New Jersey?

McCain-Feingold contains many provisions. Among them are a ban on soft money, a ban on corporate and union communications within 30 days of a primary and 60 days of a general election, and an increase to $2,000 of the limit on contributions to candidates. All apply, of course, to federal elections and federal candidates.

There is another provision that has received less attention, although it is significant in terms of its potential impact on New Jersey electoral politics. McCain-Feingold creates a new fund-raising category known as "Levin funds," under which state, county, and municipal party committees are authorized to receive heretofore soft money dollars. In fact, national party operatives are allowed to direct soft money specifically to these committees.

This soft money is subject to certain conditions. Party committees may set up special accounts for Levin funds. Contributions directed to these accounts are limited to $10,000 or, if limits to parties under state law are less than $10,000, to the state limit. And finally, any communication underwritten by this money cannot refer to federal candidates.

Changes in campaign finance laws have resulted in money and power flowing to the parties, particularly the state and county party committees. This "Repartyization" has transformed politics in New Jersey.

Despite these restrictions, these accounts will be conduits for soft money that previously went to national parties, but will now flow into state, county, and perhaps even municipal party organizations. In New Jersey , the immediate impact will be a further strengthening of these entities, already empowered by the 1993 Campaign Finance Reform Law.

This reform followed a 1989 U.S. Supreme Court decision *(Eu v. San Francisco Democratic Central Committee)* declaring California's Open Primary Law unconstitutional. A New Jersey

Superior Court subsequently nullified the State's Open Primary Law as well. Political parties are now free to endorse candidates in a primary, fund them, and provide the party line on the ballot.

What the 1993 reform did was to make the party system stronger. Like a phoenix rising from the ashes, political parties, marginalized in the 1980's, were reborn.

The campaign finance reform amendments of 1993 changed the way campaigns are financed in New Jersey. The most important changes involve the enactment of limits on contributions to candidates and parties. By establishing a contribution limit scheme that promotes political parties, the electoral landscape was abruptly altered.

Under the scheme, individuals could contribute a maximum $1,800 per election to candidates. Political action committees (PACs) could contribute up to $5,000 per election. Political parties, however, could receive up to $25,000 annually regardless of source. Moreover, they were unlimited in terms of spending on their candidates.

Though the gap between candidates and state parties has narrowed slightly due to periodic inflationary adjustments to candidate limits and a recent statutory change setting the state party limit at $25,000, the differential is still wide. And it is wider still when comparing limits on candidates with limits on county party organizations. Due to the inflationary adjuster, contributions to county party organizations can reach $37,000 per year.

These changes have resulted in money and power flowing to the parties, particularly the state and county party committees. In effect, "Repartyization" has taken place in New Jersey.

For example, in 1990, the Democratic State Committee (DSC) and the Republican State Committee raised a combined total of $2.7 million. In 1997 they raised $10.7 million. By 2001, though, the state party committee receipts totaled $24.6 million. During this period of "repartyization," state party fundraising increased by over 800 percent.

County party committees were likewise transformed during this period. A report published by the New Jersey Election Law Enforcement Commission showed that between 1986, a low point in party strength, and 1996, fundraising by county party organizations rose from $2 million to $9.4 million, a 370 percent increase. In 2001, this figure was $13.8 million. In 15 years, these once dying entities have increased their fundraising by a robust 540 percent, by far exceeding the rate of inflation.

A recent Wall Street Journal editorial pointed out that one of the unintended consequences of McCain-Feingold is the redirecting of soft money into "shadow committees" like

"Empowerment for a New Century" (Democratic) and the "American Spirit Fund" (Republican). It suggests that the money might therefore be harder to track.

A *Star-Ledger* editorial rightly made the same point recently. It stated "The soft money spigot-through which corporations, unions, and wealthy individuals poured unregulated millions into the coffers of both national party organizations, up to $500 million, this year- was officially shut off after the November 5th elections by McCain-Feingold. Washington's wise guys winked when the law was enacted; no way, they said, would either party let that kind of campaign grease get away so easily. Were they ever right?"

Both of these editorials are correct. What is being overlooked, however, is the impact on New Jersey and other states of the provision authorizing Levin funds. For New Jersey, in particular, a state that permits corporate and union contributions, the directing of soft money dollars to state, county, and municipal party committees will result in an even stronger party inf1uence over the electoral process. In fact, the flow of these dollars may well jack up their fundraising totals by as much as 20 percent per year. And in a system where money has been called "the mother's milk of politics," McCain-Feingold's provision for Levin funds promises to ensure the continuance of a very strong role for the parties.

Of course, this result is not necessarily bad. In fact, political scientists have for years urged laws that would restore party strength. It is very expensive to nun a campaign in New .Jersey and, to the extent that parties are important players in the process, a more informed electorate and higher voter turnout may result.

What is important, though, is for the new political and electoral landscape in New Jersey to be clearly understood. Understanding the effect of McCain-Feingold, and past reforms, is a step in that direction and may help in the evaluation of what, if any, changes in the campaign laws need to be made.

THE BIG MONEY
06/01/2003

Unanticipated Result of 1993 Campaign Finance Reform Law Is That Political Parties Are More Powerful Than Ever

When the Legislature amended New Jersey's campaign finance laws in 1993, few predicted how these changes would drastically alter the State's political landscape ten years later.

In October 1990, the findings and recommendations of the Rosenthal Commission set up to study legislative ethics and campaign finance were released. Three years later, in early 1993, encouraged by reform-minded individuals and legislators, then Governor James J. Florio and the Legislature enacted legislation largely modeled on those recommendations.

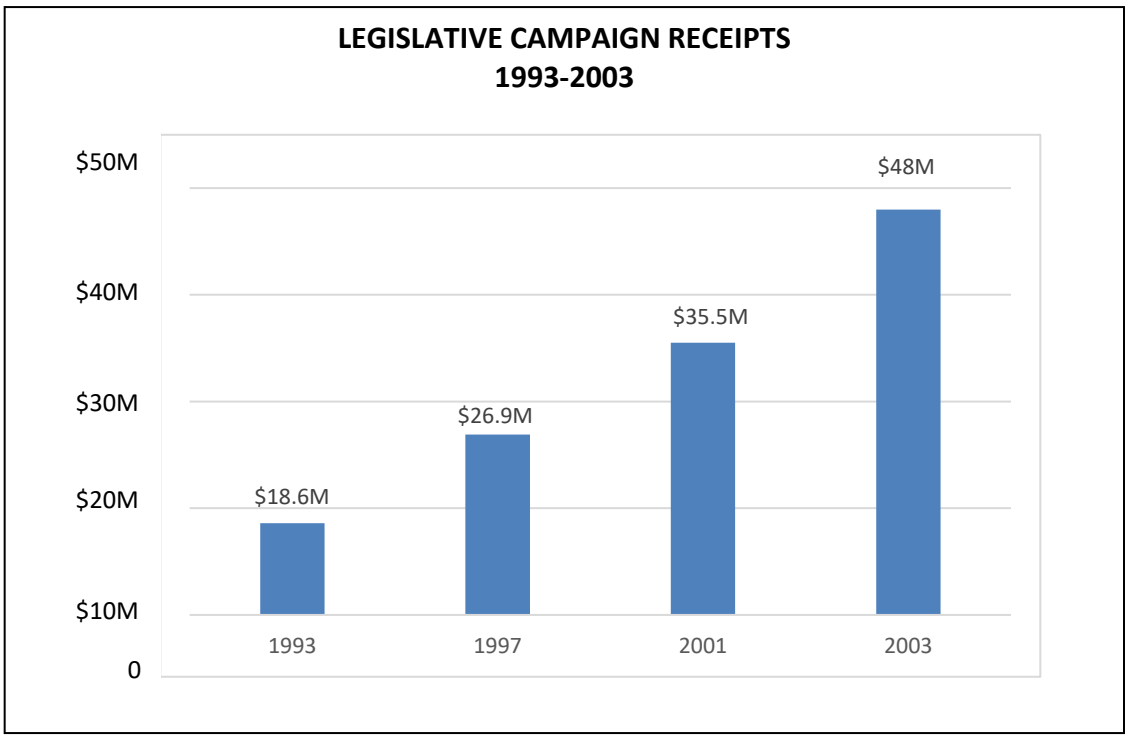
For the first time, limits were imposed on contributions made to non-gubernatorial candidates. To prevent these limits from being circumvented, the new law limited candidates to a single candidate committee and/or joint candidates committee. Gone were the days of multiple campaign committees, unlimited officeholder PACs, and unbounded contributions.

One goal of the reforms was to limit the growing influence of special interest PACs and strengthen an enfeebled political party system. The law did this by establishing a $25,000 per year limit on contributions made to political parties, compared with a much lower per election limit of $1,800 on contributions made by individuals, corporations, and unions to candidates.

It further sought to accomplish these goals by incorporating into the statute a provision that formalized an evolving statewide party entity termed a legislative leadership committee. These leadership committees, to be run by each of the four legislative leaders, also enjoyed a $25,000 per year limit on contributions received.

Finally; in one more blow struck to revive the political parties and offset the increasing influence of the special interests, the law allowed these party entities to spend unlimited amounts of money on their candidates, but limited special interest PACs to contributing $5,000 per election to those seeking public office.

At the time, there was ample reason for the Governor and the Legislature to take this approach. Many political scientists, for instance, bemoaned the weakening of broad-based political parties at the expense of narrow-interest PACs. To be sure, there was sufficient evidence to prove that this situation was the case in New Jersey.



By 1987, for example, PAC donations amounted to 20 percent of total contributions to legislative candidates. This percentage was just slightly less than the 22 percent of contributions to these candidates attributed to the political parties. By the time the 1993 reform measure was enacted, the PACs had surpassed the political parties in terms of the percentage of contributions made to candidates for the Legislature. PAC contributions constituted 15 percent of these contributions, compared with 9 percent made by political party organizations.

By the early 1990's, New Jersey's electoral system had truly become candidate-centered, with each candidate engaged in a pitched battle to raise funds. Political parties were playing a secondary role, with the state's storied history of legendary party leaders and dominant county party organizations a thing of the past. This unraveling of a strong party system, however, had not taken place overnight. While the importance of political parties plunged to an historic low in the 1980s and early 1990s, the trend had been years in the making. Among the factors leading to the decline in party influence were suburbanization, reapportionment decisions in the 1960's and early 1970's, the establishment of the Gubernatorial Public Financing Program, the State's open primary law of 1981, decreased voter turnout, and the professionalization of political campaigns.

It didn't take quite as long, however, to reverse this trend. Within a mere 10 years of passage of the 1993 Act, the political parties became as influential, if not more so, than ever before.

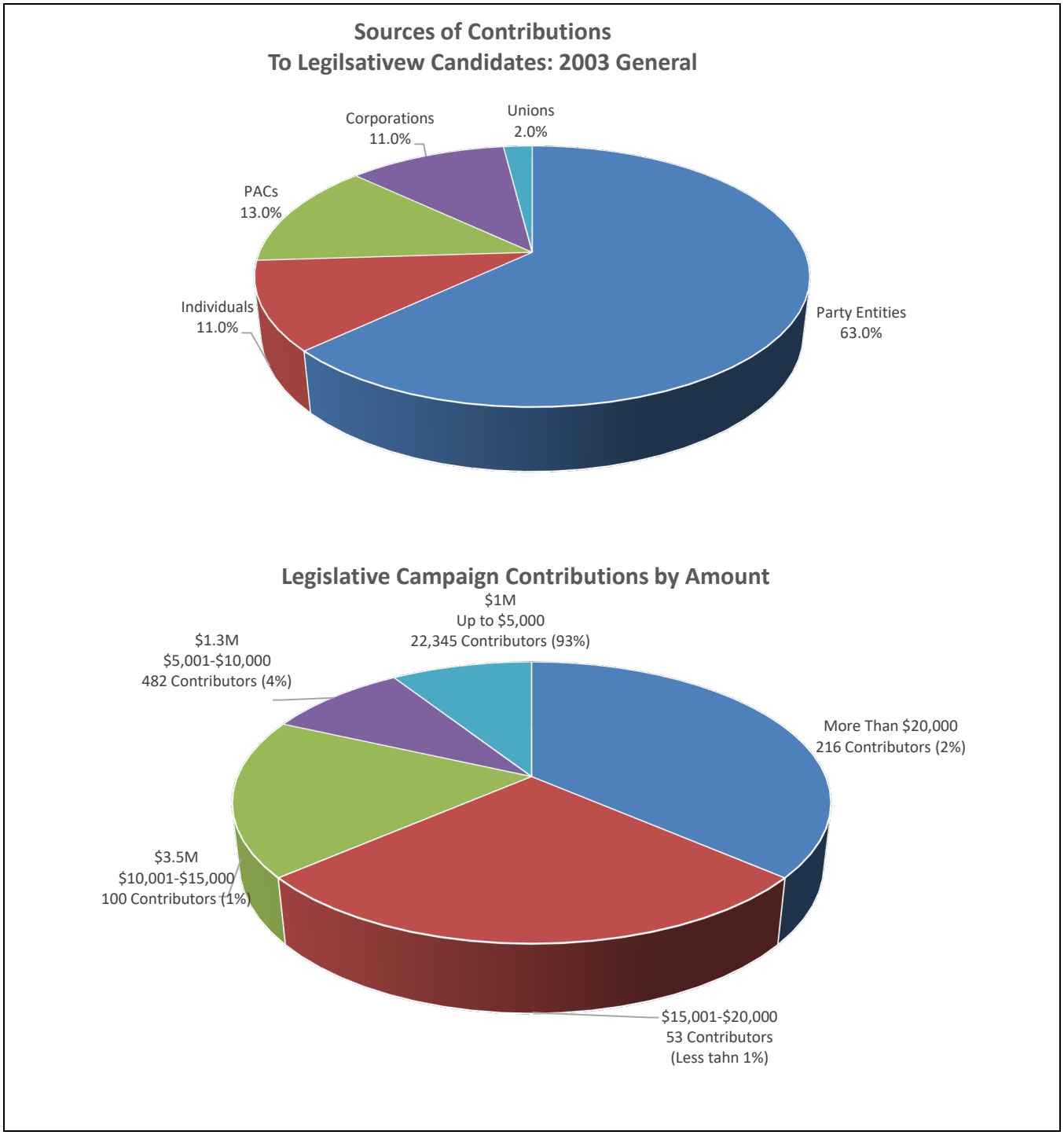
Aside from the landmark changes to New Jersey's campaign finance laws in 1993, it must be noted, however, that the first step toward party revival occurred in 1989. It was then that the U.S. Supreme Court, in *Eu vs. San Francisco Democratic Central Committee*, invalidated California's open primary law that prohibited political parties from participating in primary elections. As the result of this decision, the New Jersey Superior Court determined that *Eu* applied to New Jersey's open primary law, ending a decade of banning political parties from endorsing and funding candidates.

The *Eu* decision opened the door a crack, allowing the political parties to at least get their feet into a room that was becoming increasingly crowded by special interests. It was the campaign finance reforms of 1993, however, that opened the door all the way and completely altered the mix of guests at the fundraising party. The electoral process would now become dominated by the political parties.

This trend was first identified in *Repartyization: The Rebirth of County Organizations*, a New Jersey Election Law Enforcement Commission (ELEC) report published in 1997. The report traced increases in financial activity by the county political party committees. The data indicated a jump in fundraising by these organizations between 1992 and 1995 from $5 million to $10.1 million. The report stated:

> *It is the contention of this work that county party organizations, once power brokers, only to become poor relations in the mid 1980's, are again emerging as strong players on the electoral stage, . . [R]epartyization is ongoing in New Jersey with the county party organizations a central part of the process.*

But it wasn't only the county parties that were empowered by the new law. The state political party committees and legislative leadership committees experienced an exponential growth in financial activity. A second ELEC report, published recently in 2003, *A Resurgent Party System: Repartyization Takes Hold*, documented this fact and statistically demonstrated that the trend identified in the earlier publication continued unabated. It noted that between 1997 and 2001, contributions to the two state party committees rose from $10.7 to $24.6 million. Contributions to legislative leadership committees increased from $6 million to $10.9 million and to county party organizations from $12.1 million to $21.5 million.



INTENDED -- AND UNINTENDED -- CONSEQUENCES OF CAMPAIGN FINANCE REFORM

The 1993 campaign finance reform was intended to increase the importance of party funding of legislative campaigns, and it succeeded Party entities contributed five times as much as PACs in the 2003 campaign (top chart) But what was not anticipated was the sheer amounts of money that the parties would raise, and that the average contribution to campaigns in the over-$20,000 category (which is effectively limited to party entities) would be almost $76,000.

An era of party dominance is unquestionably upon us. In fact, financial activity recorded during this most recent legislative election in 2003 makes this development crystal clear. An analysis of contributions in amounts over $400 made to candidates for the Legislature last November shows that political parties made 25 percent of all contributions, legislative leadership committees another 25 percent, and candidates themselves an additional 12 percent. Party-related entities, therefore, accounted for almost two-thirds of the funds raised by legislative candidates.

This extremely influential role in New Jersey's electoral process now played by political parties is further illustrated by examining the various ranges of contributions made to legislative candidates in this last election. Though 93 percent of all contributions landed in the $5,000 or less category, in real dollars these contributions accounted for just 35 percent of funds received. Conversely, while contributions over $20,000 constituted just 2 percent of total contributions made, in terms of money received, these donations accounted for 48 percent of all funds. Contributions in ranges between $5,000 and $20,000 accounted for the remaining 17 percent of legislative dollars.

Because political parties and legislative leadership committees are unlimited in how much they can contribute directly or indirectly to their candidates, and because total fundraising for 2003 legislative general election candidates reached a record $40 million, this data indicates the true measure of influence of political party entities. All contributions over $20,000 must derive from party entities. Moreover, it must be assumed that a majority of contributions amounting to more than $5,000 derives from the same source. Thus, the big money comes from the parties and the smaller amounts from individuals, corporations, and unions. PAC contributions would come in denominations of less than $7,200 A truly startling statistic is that the average contribution in the over $20,000 category is $76,000.

For sure, the objectives of the 1993 campaign finance reform law have been met, but perhaps to a degree never anticipated nor intended by the architects of that landmark legislation. In truth, those reforms not only restored health to the political party system, but placed the parties and their leaders on a perch never before reached in the annals of New Jersey's rich and colorful political history.

Healthy political parties are necessary to a strong democracy. The intent of the 1993 statute to reduce the impact of special interest PACs over candidate-centered campaigns and to create a more party-oriented system was laudable. It now is up to opinion-makers, political scientists, and elected officials to evaluate how the law evolved, examine recent developments, and determine whether the current system, so overwhelmingly dominated by political parties, suits New Jersey's needs.

REQUIRING DISCLOSURE OF CAMPAIGN FUNDING GROUPS IN NJ IS IN THE PUBLIC INTEREST 09/29/2011

Citizens United received more attention than any decision by the U.S. Supreme Court in recent memory.

What drew the attention and raised the hackles of reformers was the Court's lifting the longstanding ban on corporate and union spending. By overturning the ban on independent spending in federal elections, the Court undid the restriction sustained in the 1990 decision *Austin v. Michigan Chamber of Commerce*. In Austin, the Court determined that Congress had the authority to ban spending by corporations and unions.

It also found that the blackout provision in the Bipartisan Campaign Reform Act (better known as McCain-Feingold) was unconstitutional. The blackout rule prohibited corporate or union communications within 30-days of a primary and 60-days of the general election. The decision did, however, keep in place the ban on direct monetary contributions to federal candidates by corporations and unions.

The reaction to the decision was swift and almost universally damning. Even President Obama, in his State-of-the-Union Address, took the unprecedented step of criticizing the Court in the presence of the justices.

Not only did it seem as if the Supreme Court let the sky fall but also it appeared that the justices had abandoned all reason.

Consensus opinion held that the decision would open the floodgates to out of control spending by corporations and unions. In truth, the floodgates had already been opened in 2002 by McCain/Feingold, which ended up diverting large "soft money" contributions from national parties into independent political committees. Citizens United just opened these floodgates wider.

Since the decision, the drum beat of criticism has not ceased. Countless articles have been written decrying out of control spending by independent organizations backed by corporate and union dollars. But what has been lost in what some would term a hysterical reaction to Citizens United is the fact that the Supreme Court came out strongly for disclosure.

In February 2010, the Assembly Judiciary Committee held a public hearing on the high Court ruling on New Jersey's campaign finance law. At the hearing, I testified that "the justices strongly favored disclosure, upholding requirements that sources of spending be identified."

Additionally, the testimony held that the "decision… made the need for strong disclosure laws more important than ever." In the year-and-a-half since the decision was rendered, those statements about the Court's strong support for disclosure have been born out.

In a recent article in the New York Times, Adam Liptak wrote: "An often-overlooked part of Citizens United decision actually upheld disclosure requirements."

He stated further that "Lower courts have embraced the ruling, with at least nine of them relying on Citizens United to reject challenges to disclosure laws…" Liptak made the further point that "none of this means that existing disclosure laws are necessarily adequate. But if they are not, the fault lies with Congress and State legislatures, not the Supreme Court."

And there's the rub. There is much wringing of hands in New Jersey and elsewhere over the emergence of 527 and 501(c) issue advocacy organizations. 527 groups only report their donors twice annually to the IRS. 501(c) groups never do.

These outside groups potentially could be a factor in this year's legislative elections and assuredly will be involved in the gubernatorial election two years from now.

But as it stands now, their donors and their spending will be anonymous unless they expressly call for the election on defeat of a candidate. And they are not likely to do that.

The Legislature has it within its power to require disclosure by these outside groups. Citizens United paved the way for that. While it is too late now to change the law prior to this year's legislative contest, there is nothing to stop lawmakers from enacting legislation in time for the gubernatorial contest.

Requiring disclosure of outside groups is certainly in the public interest. As the Supreme Court said, "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

DECREASED CAMPAIGN FUNDRAISING IN N.J. SHOWS IMPORTANCE OF REFORMS
10/28/2011

Fundraising by county party committees is down by 37 percent from four years ago. This decrease highlights the role that reform plays in transforming the electoral landscape.

Over three decades the influence of county party committees has taken an uneven path. From practically disappearing in the 1980s, to dominance in the 1990s, their influence is on the wane again.

These changes can be traced to reforms of New Jersey's campaign finance laws.

Historically, county party organizations were the stuff of legend. Hudson County boss Frank Hague and Atlantic County's Nucky Johnson and Frank "Hap" Farley set the standard for strong county leaders. Lewis "Luke" Gray is a legend in Somerset County.

The county organizations dominated politics (and government) until the 1960s, when several developments combined to alter the power arrangements within the state and weaken the parties.

In the 1950s, party loyalty began to decline. With weaker party identification voter turnout sunk. Suburbanization and reapportionment decisions in the 60s and 70s contributed to the decline in county party influence.

Prior to these decisions by the U.S. Supreme Court, legislative districts were drawn on the basis of county borders. After that, they weren't. It was a major blow to county parties.

The Great Society programs of the 1970s helped to further undermine many traditional roles played by parties. Various reforms of election law contributed to the weakened county party system as well. Beside the 1973 Campaign Contributions and Expenditures Disclosure Act, two reforms stand out as leading the system to its lowest point in the mid to late 1980s: the Gubernatorial Public Financing Program of 1977 and the Open Primary Law of 1981.

With public financing, candidates no longer relied on the parties for money. Thus governors owed less to county leaders when in office. Moreover, the Open Primary Law removed another area of influence in both gubernatorial and nongubernatorial elections. Parties could no longer endorse candidates in the primary, give them the party line, and were generally out of the nominating process.

Matters began to change, however, as the 1980s drew to a close.

In February 1989, the U.S. Supreme Court, in *Eu v. San Francisco County Democratic Central Committee*, held that the prohibition on primary endorsements violated the First and 14th Amendments. This decision impacted New Jersey's law. Now county parties could again endorse candidates in a primary.

What really turned matters around, though, were the 1993 campaign finance reforms.

These reforms, the brainchild of the Rosenthal Commission, allowed county parties to accept much larger contributions than individual candidate committees and permitted parties to spend unlimited amounts on their candidates.

The strengthened role of county party committees became almost immediately evident through their fundraising. Between 1992 and 2002, county party organizations increased their fundraising by 330 percent, $5 million to $21.5 million. They increased spending by 342 percent, from $4.7 million to $20.8 million.

Perhaps most telling, however, of the enhanced power of county organizations was the Democratic primary of 1997. Most pundits predicted Congressman Rob Andrews to win the nomination because of his congressional base. In the end, it was James McGreevey who was victorious because he had garnered the support of a majority of increasingly powerful county organizations.

The status of the county party system shifted again in 2006. In June 2004, the pay-to-play reform measure was enacted, effective the first of the year 2006.

Since then there has been a steady decrease in financial activity by county party organizations. As noted, fundraising dropped by 37 percent from 2007, the last time both the Assembly and State Senate were up for election. Through September 30, 2007 the county organizations raised $7.7 million compared with $4.8 million this year. These figures are similar to those reported in 2010, when the county organizations raised $4.4 million.

It hasn't helped that counties no longer are receiving funds from former Gov. Jon Corzine. Over the past decade, he gave his fellow Democrats $4.3 million.

In both years fundraising is comparable to financial activity reported by county party committees in years prior to the reforms of 1993, indicating that their once dominant role is again weakening.

So the lesson in all this is that we should never underestimate the importance of reform in reshaping the electoral landscape. Historical patterns that seem set can be altered by the swipe of a pen. Sometimes for the good, but sometimes for the bad, even leading to unintended consequences.

STRENGTHENING THE POLITICAL PARTY SYSTEM
10/01/2012

Opinion: Real reform means repealing BCRA and strengthening parties

Nasty campaign attack ads like a recent super PAC commercial that cynically implied Republican presidential candidate Mitt Romney bears responsibility for a woman's cancer death make three things clear.

First, most remaining parts of the Bipartisan Campaign Reform Act (BCRA), or McCain-Feingold, should be repealed. Second, the political party system nationally should be strengthened. Third, independent groups that are running many of the most noxious ads should fully disclose their donors and expenditures.

Enacted in 2002, BCRA represented a good faith effort to ban unlimited contributions to the national political parties long described as "soft money." Among other provisions, BCRA imposed a pre-election "blackout" period which prevented corporate and union independent spending within 30 days of a primary and 60 days of the general election. The unintended consequence—BCRA instead was a catalyst for the rapid growth of independent spending and increasingly vicious political commercials.

In 2002, when the bill became law, independent groups spent just $27.3 million, according to the Center for Responsive Politics. During the period following BCRA and preceding Citizens United, 2002 – 2008, independent spending grew by over 1,000 percent to $302 million. While independent spending was growing exponentially, activity by the national parties declined and then remained flat for most of the decade after a major run-up in the 1990s.

During the first 18 months of the 1991-1992 election cycle, the six national party committees of the two major parties raised a combined total of $263 million, according to Federal Election Commission figures. Soaring soft money receipts pushed that total up 174 percent to $720 million by 2001-2002.

After McCain-Feingold banned soft money to national parties in 2002, party receipts fell and then fluctuated around $600 million through 2010. This year, the "big six" national party committees have raised a record amount—$792 million. But that represents just a 10 percent increase over the 2002 total at the 18-month point. Had national party receipts kept rising at the 1990s growth rate, they now would total nearly $2 billion.

Independent super PACs, which didn't even exist four years ago, alone raised $318 million through June 30, according to the Center for Responsive Politics (CRP). Along with 501 (c) groups that disclose

neither their donors nor expenses, these "outside groups" are likely to set new records. "…[S]pending by outside groups will make up a far larger proportion of the total spent in the 2012 election than in previous cycles and will add up to, at a minimum, $750 million," CRP predicts.

"Over the last three elections, the amount of outside spending has grown dramatically," said a recent analysis by Lee Drutman of the Sunlight Foundation. The spending has soared because these groups usually run the more scathing attack ads so candidates can concentrate on looking good to voters. "Presumably, candidates would prefer to let others do the dirty work of attacking their opponents and remain above the fray themselves. That's why these independent expenditures are becoming more popular," said Drutman.

Perhaps the most controversial commercial of the campaign so far was produced by Priorities USA Action, a Democratic Super PAC. The commercial featured ex-steel worker Joe Soptic lamenting the loss of his wife due to the closure of his former plant. Mitt Romney's former company, Bain Capital, owned the plant at the time of its closing. FactCheck.org concluded it was "misleading on several counts" and "…strains the facts to the breaking point to imply that this tragic death is Romney's doing." Of course, given the current "take no prisoners" campaign atmosphere, other outside groups also have sponsored ads making damaging insinuations.

For instance, a group of former U.S. military and intelligence officers, including retired Navy SEALs, recently unveiled a 22-minute video accusing Obama of reckless, politically motivated leaks about the raid that killed Osama bin Laden and other security matters. Politifact.org dismissed the ad as "mostly false," as did Peter Bergen, a CNN national security expert who has written a book about the bin Laden manhunt. So, one of the main effects of BCRA was to weaken the political parties while empowering less accountable independent groups that often operate in secret and serve as campaign hitmen.

At least in the years before McCain-Feingold, the national parties were required to disclose their soft money donors as well as their hard money contributors and their expenditures. Many of today's groups disclose virtually nothing. They have been left free to fill the electoral landscape with a minefield of attack ads that often distort the truth, adding to the cynicism of the public toward politics and government.

One solution is simply for Congress to repeal most of what remains of BCRA except for a few worthwhile provisions, like its prohibition on fundraising on federal property. By repealing most remaining provisions of BCRA, Congress would eliminate the soft money ban on political parties as well as the coordinated expenditure restrictions that apply to political parties and candidates.

The benefit will be to strengthen the political parties, returning them to their rightful place in the electoral system, while also increasing disclosure.

These simple changes would redirect the flow of money to the parties and away from the more narrow interests associated with independent groups. They would strengthen a party system that represents a broad coalition of people, thereby making it more responsible than anonymous, independent groups.

There remains one more step to take to deflate the influence of independent groups. Congress should enact legislation that would require so-called social welfare 501(c) groups and 527's to register with the Federal Election Commission and disclose their donors and expenditures.

Citizens United and subsequent rulings by the Supreme Court and the lower courts have reaffirmed the right of government agencies to require disclosure by these groups. If influence can be shifted from independent groups back to parties, campaigns hopefully will be more accountable and less vicious.

In Federalist Paper Number Ten, James Madison speaks of the need to control the effect of factions. Right now in America, factions, represented by these outside groups, seem out of control. Through some common-sense reforms, we can bring back some sanity and civility to the political process.

DEMOCRACY SUFFERS AS POLITICAL PARTIES SHRINK
01/03/2014

The recent contests for governor and legislature witnessed record spending by independent groups.

It completely dwarfed spending by political parties.

Should New Jerseyan's be concerned about this development? After all, Americans have always been skeptical about political parties.

"…the common and continual mischiefs of the spirit of Party are sufficient to make it the interest and duty of a wise People to discourage and restrain it," advised President Washington in his Farewell Address to the nation.

Abraham Lincoln, in his 1838 Address Before the Young Men's Lyceum of Springfield, Illinois, echoed these sentiments. He said, "[Party] passion has helped us; but can do so no more. It will in the future be our enemy."

Despite this skepticism, John Kenneth White and Matthew R. Kerbel in "Party On!" point out that "parties afforded a way of organizing elections, legitimizing opposition, and guaranteeing peaceful transitions of power."

Though having evolved, political parties remain at the heart of America's and New Jersey's electoral system.

This is why it is alarming to witness their emasculation by independent groups.

Similar to the national level, independent groups are now outflanking New Jersey's political parties, neutering them in terms of their role in elections, and in all probability, government.

During the recent gubernatorial and legislative contests, independent spending exceeded $40 million.

In contrast, state political party entities spent $6.1 million thru October. Additionally, county party organizations spent $4.4 million during the same period.

As of October, the parties spent about one-fourth of the total spent by independent groups attempting to influence the outcome of state contests.

Why should a public, historically leery of political parties, be concerned about this development?

Because most of these outside, independent groups are unregulated under New Jersey law.

This means they can receive unlimited contributions from single sources that remain a secret. It also means that they can spend stratospheric amounts on the election and not be accountable for their activities or their message. Many of these groups are disbanded weeks or months after an election.

Provided Super PACs and other independent groups, like 501(c's), spend independently with no consultation or coordination with candidates or parties, they are free of New Jersey registration and disclosure requirements, as long as they do not explicitly urge the election or defeat of a candidate. Even if they do, they have to disclose only expenditures, not contributions.

The fact that these groups are outdistancing political parties in spending and also assuming many traditional roles of political parties in campaigns should concern every New Jersey citizen.

Parties are more regulated by state law, not only via disclosure, but also in terms of how they are organized, when they are to hold organizational meetings, and how they select their candidates.

The parties in many ways are organically linked to government through law.

They contest elections, organize government, and provide cues to voting. They serve as a conduit, or link, between the individual and his or her government.

So what can be done to preserve this important institution?

As advocated in previous columns, require registration and disclosure by all independent groups, whether or not they specifically support or oppose candidates.

Though contributions cannot be limited constitutionally, their donors and their spending can be subject to disclosure.

Registration requirements would also be constitutional under *Citizens United v. FEC* and *SpeechNow.org v. FEC*.

Further, the Legislature could establish a task force to study ways to strengthen political parties and individual candidates.

Among the possibilities would be allowing the state parties to participate in gubernatorial elections and modestly increasing limits on contributions to candidates and parties.

Further, pay-to-play reform establishing one state law, enhancing disclosure, and raising the public contractor contribution limit from $300 to $1,000, would help fortify party coffers.

The dominance of independent groups is the number one threat to the integrity of the elections process in New Jersey.

It is in the best interest of the citizenry to curb this influence by strengthening the political parties and the candidates they are linked to and support.

Hopefully, the Legislature will undertake this quest in 2014.

FIVE IDEAS FOR STRENGTHENING THE STATE'S POLITICAL PARTIES
08/21/2014

An August 15, 2014 ruling by U.S. District Court Judge Stanley Chesler reaffirmed the place of political parties in the State's electoral system.

By rejecting arguments that unaffiliated voters should have a right to vote in primaries, Judge Chesler upheld the First Amendment associational rights of political parties.

What the decision should do is serve as a springboard for other measures that would strengthen political parties in order to stave off the ever-growing influence of outside groups.

Outside groups making independent expenditures totally dominated last year's legislative and gubernatorial elections.

Completely outstripping the political party entities, independent groups spent $41 million, much of which went to targeted districts.

This amount compares with $14 million spent by state party entities.

What is worse, this trend toward outside group dominance is now trickling down to the local level.

In this year's mayoralty contests in Newark, Trenton, and Bayonne, $5.5 million was spent by independent groups, mostly in Newark.

The $5.2 million spent in Newark was more than the amount spent by six party committees and candidates combined.

So there is a clear need for the Legislature to move on legislation that would strengthen the parties and offset the influence of outside groups that predominantly operate in secret.

In the lawsuit brought by Independent Voter Project and Committee for a Unified Independent Party, et al, the plaintiffs alleged that New Jersey's statutory scheme "disenfranchises them and violates their First and Fourteenth Amendment rights… "

The Court, in dismissing the plaintiffs' claim said "suffice it to say that the two-party system, including a closed primary… characterizes the governments of most states. If it is changed, the change must come from the Legislature or the people."

In the wake of Chesler's ruling, legislative changes could be made to strengthen the political party system in New Jersey.

For one thing, the Legislature could consider lifting a long-time prohibition on state parties participating in gubernatorial elections. This ban was imposed in 1977 and for good reason. It was intended to make sure contribution limits on gubernatorial candidates were air tight.

But times have changed with PACs and independent groups now dominating elections. If last year's state campaigns were any indication, more funds now are flowing around parties and candidates rather than to them. They often are manipulated by shadowy groups that disappear after the election.

Letting parties get directly involved with gubernatorial elections will help shift contributions back to groups that are most accountable.

The Legislature also could restore the ability of public contractors to contribute up to $25,000 per year to political parties while requiring more disclosure by lowering from $50,000 to $17,500 the threshold for public contractors filing annual reports with ELEC that list their contributions and contracts.

Moreover, pay-to-play restrictions could be expanded to include contributions made to PACs registered in New Jersey. Because those restrictions currently do not apply to PACs, nothing stops a contractor from writing check to a PAC, then the PAC giving the money to parties or candidates. The Legislature should close this loophole by rechanneling the flow of contractor contributions from PACs back to parties where it is subject to full disclosure.

In addition, independent outside groups should be required to register in New Jersey and disclose their contributors and expenditures- just like parties and candidates. Public contractor donations to independent groups also should be clearly marked to enhance transparency.

These reforms would begin to redress the imbalance that now exists between independent groups and the political parties.

Political parties are highly regulated in New Jersey, serve as a link between the people and their government, help to organize government, and are broad coalitions of people rather than special interests.

Federal Judge Chesler recognized the special place of political parties in our system and so should all New Jerseyans.

WANING PARTIES ACROSS THE POND- WARNING SIGN FOR US AND NJ?
11/24/2014

The political party system in Great Britain is showing signs of decline.

According to New Statesman "In 1951, 97 percent of the electorate voted for one of the two main parties in Britain. By 2010, this had fallen to 65 percent – and according to a new poll . . . just 59 percent of those who vote in May's election will opt for Conservative or Labour."

The article states further "the Conservatives and Labour could once boast of membership over two million. Today, the figure for both is under 200,000."

America is on the same path to party decline. Federally, and throughout the states, including New Jersey, party strength is diminishing.

A Pew Research Center study found that 76 percent of the public identified themselves as Republican or Democrat in 1939. Just 18 percent considered themselves independent.

In 2012, only 56 percent were identifying themselves as Republican or Democrat, while 38 percent viewed themselves as independent.

The reasons for the weakening party systems differ between Britain and America.

Former Prime Minister Tony Blair, in devolving power to Scotland, Wales and Northern Ireland, along with his support for proportional representation in European elections, created conditions favorable to the emergence of third parties.

Economic and social problems contributed as well.

In America, changes in political culture brought about an era of single-issue politics, which contributed to party decline.

Recently, the Bipartisan Campaign Reform Act (BCRA), or McCain/Feingold, and then Citizens United, facilitated party decline by ushering in a period of sustained growth in independent groups.

Independent spending, though at a modest level, began shortly after the U.S. Supreme Court decision in *Buckley v. Valeo*, 1976. That ruling allowed unlimited spending by wealthy individuals as long as it was independent.

The surge in independent spending, however, resulted from the McCain/Feingold reforms, which eliminated unlimited soft money contributions to parties, thereby redirecting money to independent groups.

Citizens United, decided by the U.S. Supreme Court in 2010, lifted a ban on corporate and labor independent spending. By doing so, it furthered the trend ignited by McCain Feingold.

Between 2002 and 2008, two years prior to Citizens United, and following McCain/Feingold, independent spending grew by over 1,000 percent.

After Citizens United, and the emergence of Super PACs, independent groups, in many instances sponsored by wealthy individuals, spent more than $1.7 billion nationally.

This trend did not by-pass New Jersey. As in other states, independent spending soared in the Garden State.

During the 2013 gubernatorial and legislative elections over $41 million was spent by outside groups.

The trend continued this year, but at the local level. In the Newark and Trenton Mayoralty elections in May, about $5.6 was spent independently, mostly in Newark.

Two weeks ago, a super PAC spent an estimated $200,000 just on school board elections in Elizabeth.

The presence of independent groups is overwhelming political parties, as evidenced by independent groups spending about three times as much as state party entities in 2013.

In the Newark contest outside groups spent nearly as much as all candidates and political committees combined.

Further evidence is seen by the decrease in fundraising by political parties at all levels over the last decade.

There is not much that New Jersey elected officials can do about party decline internationally or nationally. But political parties can be revived in New Jersey.

As indicated in an earlier column, the prohibition on state parties participating in gubernatorial elections should be lifted.

Allowing parties to get involved in gubernatorial elections will shift contributions back to groups that are most accountable.

Moreover, public contractors should be permitted to contribute up to $25,000 per year to political parties. At the same time, stringent limits should be applied to public contractor donations to political action committees (PACs).

Independent groups should be required to register in New Jersey and disclose their contributors and expenditures – just like parties and candidates. And, public contractor donations to these groups should be highlighted in the reports, thereby enhancing transparency.

Finally, Congress should be urged to loosen the rules applicable to the federal accounts of state parties, allowing them more flexibility in the use of those funds.

These reforms would begin to redress the imbalance that now exists between independent groups and the political parties.

Political parties are highly regulated in New Jersey, represent broad coalitions of people rather than narrow interests, serve as a link between the people and their government, and organize government.

They are infinitely more accountable than often-secretive independent groups and should be strengthened.

LEGISLATIVE REFORMS NOW COULD MEAN STRONGER PARTIES LATER

07/31/2015

Without legislative reforms, New Jersey's once strong political party system will be relegated to an afterthought.

County party organizations raised only $2.6 million during the first six months of 2015, a figure lower than any of the last three legislative election years.

This follows a trend noticeable since 2006, when Pay-to-Play restrictions took effect and when special interest PACs and independent groups began to spend more money following the McCain/Feingold reforms of 2002.

Recently, another analysis by the Election Law Enforcement Commission showed a similar fate befalling state party committees and legislative leadership committees.

Comparing the first two quarters of 2007 to those of 2015, fundraising by these party entities dropped from $5.8 million to $2.5 million.

The downward trend of political party potency is alarmingly reminiscent of the 1980's, when political parties were enfeebled to the point of irrelevancy.

In 1986, for example, total receipts by county party committees amounted to $2 million, which in inflation adjusted dollars would amount to $4.4 million in 2015.

County party organizations today, as well as the state party entities, appear to be in worse shape than 30 years ago when political scientist Maureen Moakly wrote that they were "relegated . . . to a minor role in the state wide political process."

The decline in party strength in the 1980's was attributed to a number of factors.

The late Rutgers University scholar Stephen A. Salmore cited "social and demographic changes" such as suburbanization as "important determinants in the weakening of the strong party system in New Jersey."

Other developments such as reapportionment decisions of the late 1960's and early 1970's, the introduction of the gubernatorial public financing program in 1977, and the 1981 open primary law which denied party organizations the ability to endorse candidates, all contributed to the weak party system of the 1980's.

While not the same, developments during the first decade of the 21st century have contributed to the current decline of New Jersey's party system in 2015.

These developments include the Bi-Partisan Campaign Reform Act (BCRA), or McCain/Feingold, that redirected the flow of money away from national political parties to independent groups.

Starting at the national level, the growth in independent groups has trickled down to the state and even local level, siphoning off money from the parties.

The trend toward independent outside group influence was facilitated by the U.S. Supreme Court decision in Citizens United in 2010, which allowed unlimited independent spending by corporations and unions while endorsing strong disclosure laws for independent spenders.

Perhaps the most influential development that has contributed to a weakened party system, though well intended, was the enactment of a complicated Pay-to-Play law in New Jersey in 2006.

In combination with McCain/Feingold and Citizens United, the law has brought about a surge in special interest PAC and independent group spending that is far outstripping the political parties.

During the 2013 gubernatorial and legislative elections independent groups spent $41 million compared with $14 million by political parties.

While the situation may seem bleak to advocates of a strong party system, it is not too late to turn the tide.

It happened once before, starting in 1985 with a New Jersey Supreme Court decision in Friends of Governor Tom Kean v ELEC. The decision stressed the importance of local candidates being able to associate with their gubernatorial candidate under the party label.

Then, in 1989, a United States Supreme Court decision involving the San Francisco County Democratic Central Committee found California's Open Primary Law unconstitutional.

The landmark ruling invalidated New Jersey's Open Primary Law. Once again, party organizations were allowed to endorse and give the party line to candidates in the June contest.

Finally, and most importantly, 1993 reforms adopted by the Legislature in response to recommendations by a Commission headed by the late Rutgers Professor Alan Rosenthal greatly invigorated the parties. For the first time, those changes imposed contribution limits on candidates, PACs, and parties, but provided parties with much more generous limits than those placed on candidates and PACs.

Further, political parties were allowed to spend unlimited amounts of money on their candidates, something special interest PACs were not allowed to do unless they spent independently.

Legislative leadership committees, another party entity, were also created.

As a result, between 1986 and 1995, county party financial activity, for instance, grew by 370 percent, from $2 million to $10.1 million.

History can repeat itself. The political party system in New Jersey can be revived as it was in the 1990's, to the benefit of the political process.

State law, under Title 19- Elections, sets forth standards for the establishment of political parties and provides general guidelines in terms of their powers, the organization of political parties, and their membership. It also sets forth disclosure requirements under the Campaign Act as well as other restrictions, including contribution limitations on contributions to political parties.

Now that independent groups are spending more than parties and undertaking many of their traditional roles, they should be made to publicly disclose their contributions and expenses just like parties, candidate and PACs. This change would not limit their spending.

Secondly, the Pay-to-Play law should be amended to curtail contractor contributions to PACs while increasing the amount contractors can give to political parties. Contractors should be able to give more money to parties than the current limit of $300. Parties are more tightly regulated, more permanent and more accountable than PACs.

This change would end recent efforts by some contractors to get around Pay-to-Play laws by giving more money to independent groups and PACs.

Finally, contribution limits applicable to parties and to candidates should be increased somewhat.

These reforms, if enacted, would bring balance back to the electoral process by strengthening political parties and offset the growing influence of special interests groups.

COULD DECLINE OF PARTIES AND TURNOUT BE LINKED?
11/16/2015

Former Governor Brendan T. Byrne once joked "when I die, I want to be buried in Hudson County so I can continue to vote."

Maybe Governor Byrne has a good idea- let the deceased vote! Just kidding. But the problem of declining voter turnout is serious.

Only 21 percent of registered voters showed up to vote in this year's Assembly elections.

This low turnout figure comes on the heels of a gubernatorial and legislative election two years ago when only 39 percent of voters went to the polls.

These miserable turnout figures cry out for legislative action.

For several years this column has described how several trends are eviscerating political parties in New Jersey. It has noted, for instance, that once heralded parties are taking a backseat to independent groups in influencing the outcomes of elections in the State.

Further, New Jersey's complicated pay-to-play law, though well intended, has likewise impacted the parties negatively.

Could it be that a weak party system is among the factors contributing to low voter turnout?

Amidst a party renaissance in 1999, the last time only the Assembly was up for election, the Big Six party entities- the two state parties and four legislative leadership committees- spent an inflation-adjusted $6.8 million.

In this year's Assembly contest, they spent $3.6 million.

County party committees spent $16.3 in 1999. This year they spent $4.8 million.

On the other hand, independent groups, non-existent in 1999, spent $9.5 million on six targeted Assembly contests this year. Two years ago they spent $41 million on the gubernatorial and legislative elections.

Thus, independent groups outspent the Big Six and county committees by $1 million this year. In 2013 they outflanked the party entities by $27 million.

Now let's look at the situation from a different perspective.

According to an Eagleton Institute poll in 1999, 55 percent of respondents identified with one of the major parties or the other. Independents accounted for 25 percent of those polled while 19 percent either identified with a third party or had no opinion.

While a similar 54 percent of those surveyed in a 2015 Eagleton poll identified themselves as either Republican or Democrat, a full 45 percent considered themselves independent.

Interestingly, this trend toward an increased number of independents, corroborated by data nationwide, has been accompanied by a decline in voter turnout. Voter turnout nationwide is also down.

In the 1999 Assembly election, 31 percent of voters went to the polls compared with 21 percent this year.

The above data does not prove unequivocally that a direct relationship exists between party strength and voter turnout.

However, the notion that a direct relationship exists is strengthened when comparing voter turnout in statewide elections in the 1990's, when parties were strong, to recent statewide elections, following their decline.

Turnout in the four statewide elections in the 1990's averaged almost 50 percent. The most recent four statewide elections saw turnout average slightly less than 35 percent.

There are other factors that are contributing to low voter turnout. Among these are decreased public trust, voter efficacy, a more rootless society, and a variety of entertainment choices.

But, it is my belief that a weakened party system is a major contributing factor. After all, one of the main functions of the parties is to get their supporters to the polls.

In recent columns, several ideas have been put forth to strengthen political parties in New Jersey. If enacted, these reforms would offset the outsized influence of independent groups and offset the negative impact on parties of the pay-to-play law. Simultaneously, these reforms would enhance pay-to-play by simplifying the law, establishing one state law, and improving disclosure.

The specific reforms to strengthen the party include exempting them from the pay-to-play law while including special interest PACs in it, allowing the parties to participate in gubernatorial elections, increasing contribution limits for parties and candidates, requiring registration and disclosure by independent groups, and requiring independent groups and PACs to highlight contributions from public contractors.

Political parties are broad coalitions of people and are more accountable to the public. Moreover, voters identify candidates with the political parties much more so than with often secretive independent groups.

Finally, political parties are regulated by law, subject to contribution limits and disclosure. More viable political parties in New Jersey just might contribute to higher voter turnout.

POLITICAL PARTIES, THE BUILDING BLOCKS OF DEMOCRACY, NEED FORTIFYING
02/21/2017

How many of you vote?

I'll ask this question when discussing political parties with a group of college students.

Most respond that they do vote.

Then I'll ask individual students to name their State Senator, their Mayor, their representative in Congress. Most can't name these elected officials.

And then the final question. If you don't know who these officials are, or have any information about them, how do you know who to vote for?

After a pause, a few quizzical looks, the point is made that people vote based on the political party they identify with or lean toward.

This is but one of the important roles played by political parties. They provide a cue to voting, a guide for voters when otherwise they would have little or no information about the people on the ballot.

This column has been pressing for a resurgent party system in New Jersey, one that will offset the growing influence of outside, independent groups over the electoral process.

Two obstacles, however, stand in the way of a revitalized political party system.

The first is historic. Suspicion of political parties has been with us from the beginning of the republic.

President George Washington warned against the danger of parties in his farewell address to the nation. Disunity within his government caused by philosophical differences between Alexander Hamilton and Thomas Jefferson gave him great concern.

These differences would result in the first parties, which were caucus parties, or competing groups within Congress. These first parties were the Federalist party and the Jeffersonian/Democrat/Republican party.

Unfortunately, this mistrust has lingered until today.

The second obstacle is that independent, outside groups have become so influential over recent campaigns, at any one time benefiting one set of candidates over the other, that there is a creeping reluctance to address the issue.

These groups are independent and often operate anonymously. Candidates can distance themselves from outside groups yet still reap the benefits of millions of dollars spent on their behalf or against their opponent.

So why rock the vote? Here is why.

Distinct from single interest groups, political parties, which represent a broad coalition of interests and people, have three main purposes, all of which are central to our electoral system and government.

They contest elections, organize government, and, as noted above, label candidates and provide a cue to voting.

Political parties recruit and select candidates, either through primaries or caucus, provide polling, research and consulting services, and get voters to the polls.

Political parties engage professional party operatives and activists, part-time election specific participants and volunteers, and voters. They educate and inform, and impact public policy.

This role of contesting elections leads to a second function, that of organizing government. Unlike special interests, political parties organize the executive branch of government. High-level decision-making positions in the executive branch are filled on the basis of political party.

A new governor will fill his or her administration with members of his or her political party and with people who share the same governmental philosophy.

Similarly, the Legislature is organized on the basis of party. The president of the Senate and the Speaker of the Assembly are chosen based on which party holds a majority in their respective houses.

Other leadership posts are chosen in this manner as well. Control of legislative committees is based on which party is in the majority. So, policy prescriptions depend upon which party holds the reins of power.

Lawmaking is fundamental and at the heart of government. The direction that lawmaking takes is in the hands of political parties.

It can be even said that the court system is organized on the basis of political parties. Some wise person once said "a judge is a lawyer who knows a politician." Somewhere along the way, judges either were involved in politics or expressed views sympathetic to one party or the other.

Political parties, in a phrase, are central to our electoral and governmental systems. As Marjorie Randon Hershey writes in Party Politics in America, "The American parties are unusually stable and long lived . . . Both major American parties can trace their histories for more than 150 years . . . This remarkable endurance adds to their value for voters. The parties are there as points of reference year after year, election after election, and candidate after candidate, giving continuity to the choices Americans face and issues they debate."

The Election Law Enforcement Commission has put forth recommendations for strengthening political parties in New Jersey. They include increasing contribution limits to parties, exempting parties from pay-to-play laws, allowing parties to contribute to each other, allowing state parties to participate in gubernatorial campaigns, and loosening federal restrictions on state party federal accounts.

These recommendations, incorporated in bills introduced by Assembly Minority Leader Jon Bramnick and Democratic Assemblyman Troy Singleton, along with measures to require disclosure by independent groups, will revitalize political parties in New Jersey to the benefit of the public, electoral system, and government.

Aristotle wrote that the family is the building block of society. In the same vein, it can be said that political parties represent the building block of the electoral and governmental systems. Since America is a republic and not a direct democracy, political parties serve as an important link between citizens and their government.

MORE MONEY TO POLITICAL PARTIES WOULD MEAN LESS TO INDEPENDENT SPECIAL INTEREST COMMITTEES

05/24/2017

On May 22, the U.S. Supreme Court declined to hear a case that challenged the ban on soft money contributions to national political parties.

In Louisiana vs. Federal Election Commission (FEC), the High Court turned down the opportunity to further deregulate restrictions imposed on the national political parties.

Plaintiffs in the case maintained that contribution limits contained in the 2002 Bipartisan Campaign Reform Act (BCRA), otherwise known as McCain/Feingold, abridged the First Amendment free speech and assembly rights of national and state parties.

Lifting those restrictions would have relaxed contribution limits applicable to state party federal accounts, effectively ending the soft money ban on state accounts established by the national parties.

The action taken by the Supreme Court is both surprising and disappointing. In light of the emerging influence of outside, independent groups it would seem reasonable for the Court to hear arguments pro and con.

In refusing to do so, the High Court essentially affirmed the reasoning of the three-judge panel of the District Court for the District of Columbia, which upheld McCain/Feingold's soft money ban.

In previous columns, I wrote that if the Supreme Court ended the soft money ban on parties it would contribute toward rebuilding the parties nationally and at the state level, "including New Jersey."

I still feel that way and am disappointed that the High Court did not take this opportunity to right the campaign finance system and at least put political parties on the same footing as Super PACs and other anonymous groups.

In making its decision, the Court appears to stand with Democracy 21, Public Citizen, and the Campaign Legal Center, which, in their amicus brief referenced "the close and unique relationship between parties and their candidates," which "creates the threat," presumably of corruption.

This reasoning makes no sense. The very reason political parties exist is to contest elections and support their candidates. Certainly, political parties and candidates have a "close and unique relationship" and well they should.

Parties are broad coalitions of people, not narrow interests, whose fundamental purposes are to contest elections, organize government, and provide a guide to the voting public.

They are a link between the citizen and the government.

The current state of campaign finance law, as it impacts political parties, defies common sense.

At the national level obstacles are placed between parties and their candidates by not allowing the parties to coordinate with the candidates and by imposing this McCain/Feingold soft money ban.

Moreover, these limitations are even more egregious when set against the lack of regulation placed on independent groups that raise billions of dollars to influence elections and take control of campaigns away from parties and candidates.

To make matters worse these groups, 527's, 501c's, and Super PACs often function under the cloak of darkness, worsening, rather than bettering, transparency in the election process.

With this decision in Louisiana vs. FEC, let us hope that the Court has only temporarily let leave of its senses and will regain its clear headedness if further cases come before it whose aim is to strengthen the party system.

In any case this recent decision by the U.S. Supreme Court should not deter efforts to strengthen political parties in New Jersey.

As has been noted repeatedly, independent groups have been consistently outflanking political parties recently in influencing gubernatorial, legislative elections, and even local elections in New Jersey.

It is time for that to change by increasing contribution limits on donations to parties, allowing state parties to participate in gubernatorial campaigns, removing political parties from pay-to-play restrictions, placing PACs under pay-to-play, allowing parties to give to each other, and requiring registration and disclosure by independent groups.

In the words of the Brennan Center for Justice report "Stronger Parties, Stronger Democracy: Rethinking Reform." "Here we conclude that targeted measures to strengthen political parties, including public finance regulations, could help produce a more inclusive and transparent politics."

THE BEST REFORM FOR THE CAMPAIGN FINANCE SYSTEM IS STRENGTHENING POLITICAL PARTIES
09/18/2017

It seems both sides of the issue of how to properly finance campaigns are fiddling around the edges rather than seeking truly meaningful reform.

Congressional Republicans are pushing several revisions in campaign finance law by attaching riders to a spending bill. At the same time, progressive groups are advocating Democratic legislation that would use public financing to try to involve more small donors in federal elections.

While all these proposals may be well-intentioned, the best change would be to simply strengthen the political party system.

One big change being sought in Washington DC, would allow 501(c)(3) charitable non-profits to endorse candidates without losing their tax-exempt status.

Termed the religious rider, it would enable churches and other non-profit charities to support or oppose candidates. Under the 1954 Johnson Amendment, these non-profits are banned from doing so. President Trump vowed to end this ban during last year's election.

Another rider would allow corporate employees to donate to as many trade association political action committees (PACs) as desired. Current law limits employee solicitations from their corporate employer to one group per year.

In addition, the riders would extend the existing prohibition on the Internal Revenue Service (IRS) and Securities Exchange Commission from adopting regulations that would impact the political activities of 501(c)(4) groups and publicly traded corporations, respectively.

A further rider would prevent the federal government from requiring public contractors from disclosing their donors.

On the other side of the spectrum, Democracy 21 and Brennan Center for Justice have endorsed federal legislation sponsored by Democrats to try to reduce the amount of money in politics.

Its plan to counter special interest influence involves a public financing scheme that would encourage small donor financing in presidential campaigns.

Drawing directly from a long-time public financing program in New York City, the plan would provide $6 in public funds for each $1 in private funds up to $250. So $250 in private contributions would provide the candidate with $1,500 in public funds- a total of $1,750 per election.

Candidates would be allowed to accept more than $250 in private contributions but the additional money would not be matched. They could raise a total of just $1,000 per election from private sources. Non-participants in the voluntary program could continue to accept checks up to the current federal limit on private contributions, which is $2,700 per election.

According to the Center, its plan would "magnify the role of average voters in an election."

Minus a debate on the merits of one approach or the other, both have in common one unfortunate consequence – they would likely further expand the influence of independent special interest groups in the electoral process.

Independent groups, many of which operate anonymously, tend to run more negative ads than candidates. More spending by independent groups likely means more attack ads and more secret spending.

Each one of the proposed federal riders would greatly increase the already outsized spending by special interest groups in the process. None would enhance disclosure. In fact, the provision allowing charitable groups to take part in campaigns would lead to even more secret money in politics since charities do not disclose their donors.

The Democratic proposal, on the other hand, would indirectly incentivize independent special interest organizations to increase their participation in the campaigns to help offset the contribution limits imposed by the new program.

While seeking to accomplish the unachievable goal of reducing money in politics, it would increase the amount of money in politics by prompting more independent spending.

The best path to reform is to redirect the flow of money away from independent groups back to political parties and candidates, which are more accountable and operate more transparently.

That can be done through changes in the law.

The growth in independent spending began in earnest as the result of the Bipartisan Campaign Reform Act (BCRA) in 2002, otherwise known as McCain/Feingold. By ending unlimited "soft money" contributions to national political parties, McCain/Feingold redirected the flow of money toward independent groups.

This trend was then facilitated by *Citizens United v. FEC* ruling in 2010.

By changing the law and again permitting national parties to accept unlimited soft money- or at least letting them accept much larger "hard money" contributions- the spicket would tighten on independent groups.

Raising the limit on federal accounts at the state party level would help as well as allowing parties to coordinate with their candidates. All of these measures would greatly offset the growing influence of independent groups and bring more accountability to the process.

In New Jersey, the Election Law Enforcement Commission (ELEC) has put forth proposals to strengthen political parties and offset independent money in the process. Both political parties have introduced legislation that incorporates many of these recommendations.

ELEC has recommended that political parties be exempt from the pay-to-play law, that the contribution limit on donations to parties be raised, that county parties be allowed to contribute to each

other, that the political parties be allowed to contribute to gubernatorial candidates, and that special interest PACs be included under the pay-to-play law.

ELEC has also recommended that public contractors disclose their contributions to 501(c)(4) and 527 groups, and that independent groups more fully disclose their contributions and expenditures.

These changes would bring more accountability to the electoral process in New Jersey and diminish the influence of independent groups.

STRENGTHEN POLITICAL PARTIES TO OFFSET INCREASED SPENDING BY INDEPENDENT GROUPS

03/17/2018

In four legislative elections since 2011, so-called dark-money groups drilled down with more than $3.7 million in independent spending in the 2nd Legislative District.

With the 2nd District among the most competitive in the state, that figure would have been tops in the state among legislative districts if not for $14 million spent by dark-money groups in neighboring 3rd District this past November.

Dark money is campaign funding whose source isn't required to be disclosed, although it often is. Dark-money groups are independent committees operated by special interests outside the control of parties or candidates. They are often anonymous, not regulated by state law, and often exempt from disclosing their activities.

Seventeen Atlantic county communities, including Atlantic City, comprise the 2nd District. Attesting to its competitiveness, the district is represented by state Sen. Chris Brown, a Republican, and Democratic Assemblymen Vince Mazzeo and John Armato.

If history is a guide, this district will continue to be highly competitive, a sure invitation to significant, if not overwhelming, dark money involvement in the future.

What has occurred in the 2nd District reflects statewide trends at all levels of government.

For instance, between the state elections of 2005 and 2017, dark-money spending grew by more than 11,000 percent. From $411,224 in 2005 dark-money independent spending climbed to $47.5 million in 2017. In comparison, state and county parties spent $48 million in 2005 and $26 million 2017, a complete reversal of fortune.

The local level of government has not escaped the onslaught of dark money either.

In 2013 a federal super PAC spent $176,116 on the Elizabeth School Board race while dark-money interests spent $251,629 in Jersey City's mayoralty contest. A total $5.5 million was spent in 2014 in Newark's mayoralty race and in 2015 a Washington, D.C., - based super PAC participated in Parsippany's primary election.

While this was happening, spending by municipal party committees was declining. Municipal parties throughout the state spent $8.8 million in 2007 yet only $4.4 million in 2017.

Back home in the 2nd legislative district dark-money groups spent $588,000 in 2017, just $100,000 less than the two county party committees in Atlantic County, which spent $681,000.

A better barometer of things to come in the 2nd District may be the Assembly election of 2015, however. Dark money groups dumped $2.1 million into the 2nd District to influence the outcome of the election. The county organizations spent $691,000.

To counter this trend, the New Jersey Election Law Enforcement Commission has made several proposals that, if enacted, would strengthen the political parties and offset the influence of independent groups.

These proposals have been incorporated into legislation introduced by state Sen. Troy Singleton, D-7th, and Assemblyman Andrew Zwicker, D-16th. Assembly Minority Leader Jon Bramnick, R-21st, has also introduced legislation.

The recommended reforms call for the following:

Independent groups – require registration and disclosure of contributions and expenditures;

Political parties – exempt them from pay-to-play laws, allow county parties to give to each other, allow participation in gubernatorial elections by state parties, and increase contribution limits.

Pay-to-play laws – consolidate into one state law, increase contract disclosure requirement to $17,500 disclosed, end fair-and-open loophole, increase contractor donation amount to $1,000, include PACs under the law, exclude political parties from the law, and require disclosure of contractor donations to independent groups.

While a strong political party system may not be a perfect solution, in terms of the public good it is considerably better than the alternative.

Political parties are accountable, regulated by New Jersey law, disclose their activities, and provide a cue to voting.

Whereas the public identifies candidates with their political party, there is no such connection in the public's mind between candidates and independent groups, allowing them to run questionable, often misleading, attack ads against the opponent of the candidate they support.

Another advantage of a strong party system is that it may help to improve upon the paltry voter turnout rate in recent years.

A main function of political parties is to get out the vote. During the 1993 gubernatorial and legislative elections, when state and county parties spent $48 million and dark-money were non-existent, voters turned out at a rate of 65 percent. This year, with a weakened party system, turnout was 36 percent. In Atlantic County the turnout rate was 39 percent.

So strengthening the parties may bring more voters to the polls.

There is no more important issue than the integrity of the electoral system.

The Legislature has it within its power to establish an electoral system in the best interest of the public. Hopefully it will do so.

OPEN PRIMARIES COULD FURTHER DIMINISH PARTIES WHILE BOOSTING INDEPENDENT GROUPS
04/13/2018

Colorado is about to put into place a misguided plan that could further weaken an already ailing political party system.

Over the opposition of the state's political parties, the voters approved Proposition 108 in 2016. This measure ushers in an era of open primaries in the Western State.

For Colorado's voters who are registered members of a political party, the move will dilute their ability to select candidates who best represent their views in the general election.

Even more worrisome is the fact that Colorado's Proposition 108 is the result of a national campaign, whose efforts, if successful, could destroy the party system in much of America.

Fortunately, New Jersey isn't likely to embrace such a transformation anytime soon. New Jersey isn't one of the 26 states plus the District of Columbia that allow voters to put questions on the public ballot. Only the Legislature has that ability and until now has shown no inclination to put such a sweeping change before voters.

In Colorado, party members now must share the responsibility of picking a general election candidate with unaffiliated voters who may decide to vote in one party's primary this year and another

party primary the next. These unaffiliated voters don't have a real stake in the party's governmental philosophy or platforms.

Without having any tie to a political party, 1.4 million unaffiliated voters in Colorado will get to influence the selection of a party's general election candidates.

About the only thing worse is the blanket primary, wherein voters can vote for members of different parties in the same primary election. For example, they might vote for a Republican mayoral candidate, a Libertarian state legislative candidate and a Democratic gubernatorial candidate.

Either type of primary system would damage parties, which, in turn, would hurt the functioning of government.

The Colorado ballot question was the brainchild of the recently established National Association of NonPartisan Reformers. This Association represents a coalition that includes Centrist Project, No Labels, the Bridge Alliance, FairVote, Open Primaries, and Independent Voter Project.

Open Primaries spent $250,000 successfully advocating for Proposition 108 in Colorado. In an unsuccessful effort in South Dakota, it spent $1.1 million attempting to amend the State Constitution. FairVote was the engine behind Maine's 2016 initiative that created a ranked-choice primary system.

The coalition's goal is seemingly well meaning. Its purpose is to increase voter participation and accountability in the nation's political system. A referendum asking voters to approve this change would have great surface appeal.

Well-intentioned reforms, however, often have unintended consequences. This one is likely to be an illusion.

Increased participation may result. But it is doubtful. After all, it has been the parties that have traditionally turned out the vote. When parties were strong and party ID was high, so was voter turnout.

Further, there will be less accountability, not more. Undermining political parties through open primaries will only facilitate the already tremendous growth in independent groups, which are far less transparent in their activities.

These groups are already providing stiff competition for political parties, spending billions on federal, state and local campaigns during the last decade. In the minds of the voters, these groups are not linked to candidates and often spend their money in secret. So it is easier for them to get away with smear tactics too extreme for candidates themselves.

Political parties, by comparison, are infinitely more accountable to the public. If they run a negative advertisement, voters know it. They are a link between voters and their candidates, a cue to voting, and

regulated by law. Political parties represent broad coalitions of people, disclose their financial activity, and, unlike independent groups, are subject to hard limits on donations they receive.

Independent special interest groups do not organize government- political parties do. Historically, parties have helped bring a sense of order and discipline to government. Without them, government could become less effective.

Instead of measures that serve to weaken political parties, policies that strengthen them should be enacted. This is what proposals put forth by the Election Law Enforcement Commission would do in New Jersey.

These proposals include allowing the parties to participate in gubernatorial elections, raising contribution limits on donations to them, allowing county parties to give to each other in primaries, and exempting parties from the pay-to-play law.

These measures, together with registration and disclosure by independent groups, and reform of pay-to-play, would not only strengthen political parties but would offset the flow of money to autonomous groups and redirect it to the parties and candidates.

Measures championed by the National Association of NonPartisan Reformers should be resisted in favor of reforms that would strengthen political parties. Encouraging participation in politics is a good thing, but not in ways that would undermine an important institution.

Rather than undertake efforts that would dismantle the party system, people who feel the need for a new direction always have the option to attempt to create a new party. That is how the Democratic and Republican parties came about.

HISTORY SHOWS POLITICAL PARTIES HAVE ADVANCED VOTING RIGHTS

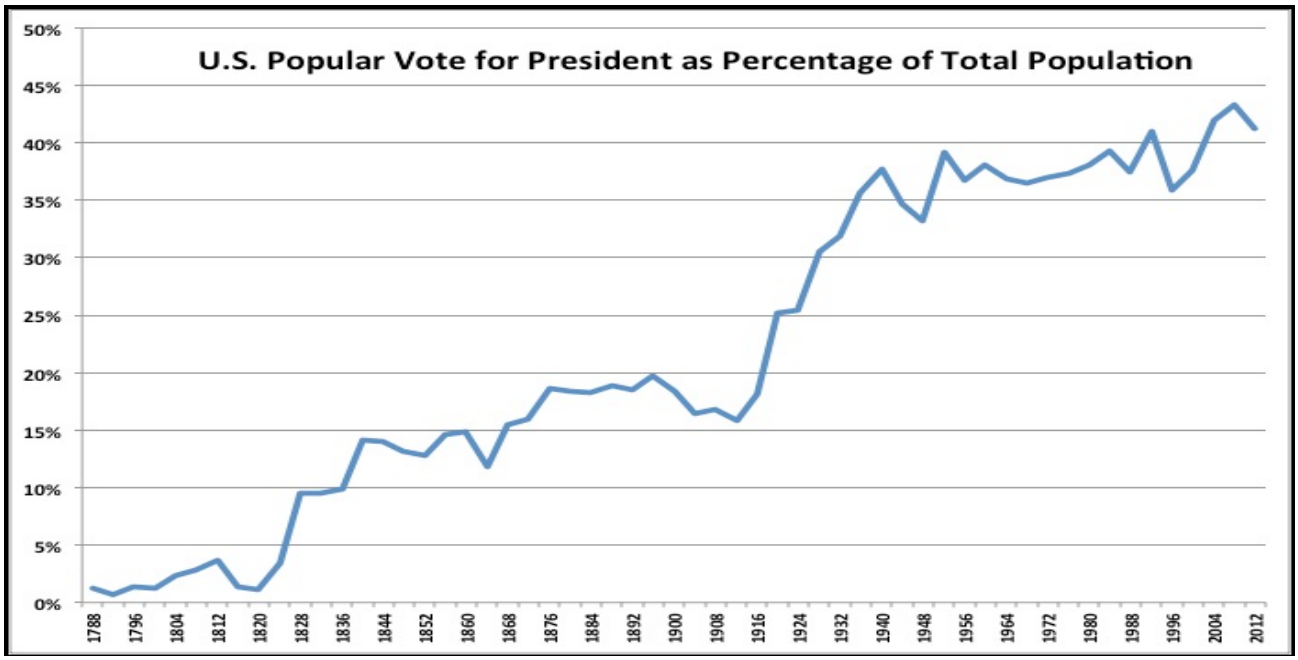
07/16/2018

Political parties perform many functions. One rarely noted has been their historic role in expanding democracy and extending the voter franchise.

Voting rights almost always has been contentious. Intense debates today over issues like voting ID and gerrymandering indicate that progress does not come easily on such fundamental issues. Some even fret that democracy itself is at risk due to the growing polarization of the two major parties.

History shows, however, that the tug-of-war between the two parties has led to more democracy, not less.

In 1788, only about one percent of Americans cast votes for president, according to US Census data. By 2012, the number had reached more than 40 percent, in part due to the efforts of parties.



U.S. presidential election popular vote totals as a percentage of the total U.S. population. Note the surge in 1828 (extension of suffrage to non-property-owning white men), the drop from 1890–1910 (when Southern states disenfranchised most African Americans and many poor whites), and another surge in 1920 (extension of suffrage to women).
https://en.wikipedia.org/wiki/Voting_rights_in_the_United_States

During the centuries-long struggle, sometimes Democrats have taken the lead. Other times, it was the Republicans. Some changes were bipartisan. Other reforms were instigated by third parties like the Progressives.

What is clear is when the nation began, voting was an exclusive right.

At the founding, the original Constitution did not specify voter eligibility, instead letting each state decide. In the years following the ratification of the Constitution in 1789, the voter franchise was limited to freeholders, generally white male property owners.

This tradition was carried forward from colonial days under England, and more distantly from ancient Athens, wherein Aristotle wrote of adult male citizens, presumably property owners, participating in direct democracy.

The initial effort to advance voting rights began with the Jeffersonian party in the early 1800s. Pressed by the young party, some states eventually repealed property, income and tax-paying qualifications, and allowed renters to vote.

At the time, the party system was not yet a mass party system but rather one of cadre parties, or factions within Congress. Nevertheless, this was a step toward expanding the electorate.

The trend toward democratization was furthered in the 1830's by the emergence of the mass party system, brought about by the establishment of the Democratic party and later the Whig party.

Democrats under President Andrew Jackson extended the rights of the common man. They fully eliminated property ownership as a qualification for voting and replaced it with a taxpayer qualification.

After the Civil War, with the support of the newly established Republican party, the 15thAmendment was ratified. Though some New England states allowed African-Americans to vote before the Civil War, the Amendment solidified that right for black males.

It read in part "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

Though states, particularly southern states, would enact laws designed to impede voting by African-Americans, eventually the Amendment, backed by U.S. Supreme Court rulings and congressional action, paved the way for an expansion of voting rights for all.

The Progressive party in the late 1800's championed women's rights, including their right to vote. When the Republican party took control of both houses of Congress in 1919, with Democrat Woodrow Wilson in the White House, the 19th Amendment, giving women the right to vote, was passed by the House and Senate and ratified by the states in 1920.

In 1965, a Democratic majority in Congress, along with Republican support, passed the Voting Rights Act. The Act enforced the 15th Amendment and made illegal "voting qualifications or prerequisite to voting" that denies the right to vote on account of race or color.

The Voting Rights Act banned literacy tests, proofs of good moral character, and voucher for qualifications of registered voters.

Today the political parties are locked in a debate again involving voting rights, including the question of whether individuals should be required to present an ID before voting.

The Democratic party opposes voter ID laws, arguing that they present an unnecessary impediment, particularly among minority voters and the poor.

The Republican party favors voter ID laws to protect the integrity of the vote by ensuring that ballots are not fraudulently cast.

However the issue plays out, it shows that the parties continue, two centuries later, to be concerned with voting rights, even if for partisan and self-interested reasons.

Efforts by political parties to expand democracy and advance voting rights is one of many contributions made by parties, including those in New Jersey.

Just three months ago, Governor Phil Murphy in April enacted a bill described by Politico as "one of the most expansive voter registration laws in the country." Under the bill (A-2014), New Jersey citizens seeking or renewing a driver's license at a Motor Vehicle Commission office would automatically be registered to vote unless they opt out.

Democrats are pressing for other laws to expand voter rolls and participation, including bills that would expand early voting and let people register to vote online.

Party advocacy of voter rights is among the many reasons why the political party system needs strengthening.

Parties are in decline partly because special interest groups that used to financially support them directly are spending a fast-growing share of their funds on independent campaigns.

During last year's gubernatorial and legislative election, independent special interest groups spent $48 million and outdistanced the political parties by a significant amount.

Tight limits on contributions by public contractors since the mid-2000s also are pinching the coffers of New Jersey political parties.

In the wake of these growing onslaughts, the parties will soon become irrelevant without legislation reversing this trend.

The New Jersey Election Law Enforcement Commission has made recommendations that would strengthen political parties and restore their rightful place in the electoral system in New Jersey.

They include: exempting parties from pay-to-play; increasing contribution limits; allowing state parties to participate in gubernatorial elections; providing individual tax credits contributions to parties and candidates; allowing county organizations to give to each other; including PACs under pay-to-play; and disclosure by independent groups.

Taken together these reforms would revive political parties, which are transparent and more accountable to voters, and halt the rising influence of less answerable independent groups.

COUNTY PARTIES: ALIVE BUT NOT NECESSARILY WELL

08/13/2018

During the first six months of 2018, cash-on-hand by New Jersey's county party organizations jumped by 86 percent over the same period four years ago.

In terms of the financial health of county parties, this appears to be good news. In reality, however, it simply masks the bad news, namely that the parties are in the financial doldrums compared to the late 1990's and early years of the new century.

Over the ten-year period 2007-2017, spending by county parties actually declined by 1.4 percent, from $14.3 million to $14.1 million. If county spending instead had increased to simply match inflation, it would now be $17.3 million.

Moreover, while the 2017 election involved the Governorship and the Legislature, the 2007 election included only the Legislature.

Keep in mind that county coffers last year were temporarily fattened from an infusion of money in 2017 from the Democratic Governor's Association (DGA), the Democratic National Committees, national and state unions, and pre-2017 contributions from then-gubernatorial candidate Phil Murphy and other Democratic hopefuls. Minus that cash flow 2017 financial activity by the county parties would have been notably less than ten years earlier.

Even with the extra contributions related to the 2017 governor's race, the $14.1 million spent in 2017 still pales in comparison to the $27 million spent by county parties in 2003, the peak year for county expenditures.

Clearly, the health of county party organizations has deteriorated. Without legislation the party organizations will soon be on life support.

The declining health of once-vigorous county parties is traceable to the Pay-to-Play Law, implemented in 2006. Though well-meaning, this confusing law resulted in the growth of independent groups and other special interest PACs that have plagued the State's electoral system.

This is not surprising. Through the years changes to campaign finance laws, as well as other developments, have worked to alter the fortunes of county parties and in turn impacted the electoral system.

County parties dominated politics and government in New Jersey until the 1960's. Historically, they were the stuff of legend. Hudson County boss Frank Hague and Atlantic County's "Nucky" Johnson

and Frank “Hap” Farley set the standard for strong party leaders. Lewis “Luke” Gray provided unparallel leadership in Somerset County.

Then, in the 1960’s suburbanization and reapportionment decisions, which undid the practice of drawing legislative district lines on the basis of county borders, constituted a major blow to county parties.

Legislative changes in the 1970’s and 1980s made things worse.

After passage of the 1977 Gubernatorial Public Financing Program, county parties no longer played a dominant role in gubernatorial elections because parties were restricted in how much they could give the new, publicly-financed candidates.

The 1981 Open Primary Law further undermined the influence of county parties in that it removed their ability to endorse candidates in the primary and to give them the line on the ballot. The law effectively took away their role in the nominating process.

Yet as the 1980’s drew to a close, county fortunes suddenly improved again. In February 1989, the U.S. Supreme Court, in Eu v San Francisco County Democratic Central Committee, ruled that California’s prohibition on primary endorsements was unconstitutional. This decision likewise caused New Jersey’s law to be in violation of the Constitution. County party leaders regained powers they had lost eight years earlier.

The real turning point for county party organizations, however, came as the result of legislative reforms in 1993.

These reforms stemmed from recommendations made by a legislative study group known as the Rosenthal Commission as well as by the New Jersey Election Law Enforcement Commission (ELEC). In commission white paper reports, I helped craft the ELEC recommendations as deputy director.

The intent was to generally strengthen the parties, including county organizations. The legislative changes allowed parties to accept much larger contributions than individual candidate committees and permitted them to spend unlimited amounts on their candidates.

In the ensuing years, county parties resumed their historic role of preeminent players in New Jersey elections.

Then all began to change again following the enactment of the Pay-to-Play Law, which took effect in 2006. Rather than money flowing to accountable parties, contractor money began flowing to special interest PACs. In many cases, they were specifically set up to circumvent the Pay-to-Play laws.

A bit later, independent 501(c) and 527 non-profit groups emerged, which further drained money away from the parties.

Independent groups now dominate elections in New Jersey. During the 2017 gubernatorial and legislative elections, outside groups spent $48 million, a figure that outdistanced state, county, and municipal parties combined, and by a significant margin.

For their part, as noted above, county party organizations spent $14.1 million, an amount that was half as much as spent in 2003.

As in the past, it is time to change the law again, this time to alter the system in favor of more accountable parties and candidates and away from outside, independent groups.

The Election Law Enforcement Commission has set forth proposals that taken together would change the electoral landscape again by offsetting the influence of outside groups and re-invigorating political parties.

These proposals would strengthen political parties, require registration and disclosure by independent groups and reform Pay-to-Play. I

n the interest of the public, independent groups, which already have an advantage in that they are not subject to limits on contributions or on spending, should at least be treated the same in terms of transparency as parties and candidates.

BAN ON NJ COUNTY PARTY TRANSFERS COULD BE ON SHAKIER LEGAL GROUND DUE TO MISSOURI COURT RULING
10/9/2018

Could a recent ruling by the Eighth Circuit Court of Appeals spell trouble for New Jersey's ban on transfers of money between county party committees?

In November 2016, an amendment to Missouri's Constitution imposed a ban on contributions between political action committees (PACs). The amendment was approved by voters of Missouri.

Following the adoption of the amendment, Free and Fair Election Fund (FFEF) and the Association of Missouri Electric Cooperatives Political Action Committee (AMEC-PAC), challenged the prohibition on PAC-to-PAC transfers as a violation of the First and Fourteenth Amendments.

Missouri's Constitutional amendment read in part "Political Action Committees . . . shall be prohibited from receiving contributions from other political action committees . . . ." The amendment was defended by the Missouri Ethics Commission.

After a hearing, the United States District Court for the Western District of Missouri – Jefferson City ruled that the State's amendment was "unconstitutional on its face under the First Amendment and unconstitutional as applied to FFEF."

The District Court enjoined, or permanently stopped the Missouri Ethics Commission from enforcing the provision.

In April 2018, the Missouri Ethics Commission appealed the District Court's ruling that permanently restricts the Commission's ability to prevent transfers of funds between PACs.

On September 10, 2018, the Eighth Circuit Court of Appeals, which has jurisdiction over cases in Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, upheld the decision of the District Court.

Circuit Court rulings are not binding on others because each district is independent. New Jersey belongs to the Third Circuit along with Delaware, Pennsylvania and the Virgin Islands. While not binding in that district, the Eighth Circuit case could lay out a legal roadmap for a successful challenge of New Jersey's law.

In its ruling, the Appeals Court stated "The district court properly enjoined enforcement of the transfer ban in its entirely. The amendment violated the First Amendment as applied to PACs that donate only to candidates and to PACs that both donate to candidates and make independent expenditures."

As justification for its decision, the Appeals Court cited the "low risk of quid pro quo corruption stemming from PAC-to-PAC transfers" and the "existence of other campaign finance laws that facilitate transparency."

In response to the Ethics Commission's argument that without the ban it would be difficult to track funds comingled by PACs, the Court noted "If disclosure laws will not help the public discern who gave money to whom, then we are hard pressed to see how a candidate would identify an original donor to create a risk of quid pro quo corruption."

Whether or not the ruling by the Eighth Circuit Court of Appeals is appealed and subsequently taken up by the U.S. Supreme Court, it nevertheless calls into question the constitutionality of New Jersey's ban on county party to county party contributions.

Under the State's Campaign Contributions and Expenditures Reporting Act (19:44A-11.3a), county party committees are prohibited from making contributions to each other during the primary election period.

The statute reads in part ". . ., between January 1 and June 30 of each year, a county committee of a political party shall not make a contribution to any other county committee of a political party, nor shall any such county committee accept a contribution from any other county committee during that period."

At the time, the reason for such a restriction was to prevent a wealthy donor from spreading large donations around to county parties only to have those committees in turn wheel the donation to other county committees in circumvention of contribution limits.

The ban on inter-party transfers may have made more sense when it became law in 2006. But just 12 years later, the provision is outdated and counterproductive. The political party system in New Jersey has become very weak during the past decade.

Parties and the entire electoral system face an ever-growing threat from Super PACs and other independent special interest groups, which, unlike parties, can raise unlimited funds and often operate with little or no disclosure. Steps must be taken to reinvigorate parties so they can counter the influence of these independent spenders.

Furthermore, the logic set forth in *Free and Fair Election Fund v. Missouri's Ethics Commission* is applicable to the State's ban on county party transfers.

If it is unconstitutional to restrict PAC-to-PAC transfers, whether made to PACs that contribute to candidates or spend independently, why is it not unconstitutional to restrict county party-to-county party donations?

The New Jersey Election Law Enforcement Commission has put forth a pragmatic set of proposals to strengthen political parties, simplify and strengthen pay-to-play, and require disclosure and registration of independent groups.

One of the prongs of its recommendation to strengthen political parties is to end the ban on county party contributions to each other. In the wake of the recent Eighth Circuit Appeals Court decision and with the serious need to offset the clout of independent groups by strengthening political parties, now may be the time for the Legislature to reconsider the ban on county party transfers.

The Legislature also needs to consider moving the full package of proposals that, together, would improve the State's electoral system by strengthening political parties and shrinking the power of dark money groups.

Strengthening political parties will broaden the influence of municipal officials over policies adopted by State government.

Many good reasons exist for resurrecting New Jersey's weakened party system. None are more important than enhancing the say local officials have over top-down decisions that affect their communities.

To most, "home rule" is a thing of the past. Bringing back the parties may restore a semblance of that tradition.

Having stronger political parties locally will give greater voice to municipal officials as they advocate for their communities.

Legislators and other State officials would come to depend more on municipal and county party leadership for support. With greater accountability to local political parties, officials elected to serve in State government would be more receptive to designing policies that would loosen State mandates and regulatory control over local governments.

Local government first

Thomas Jefferson maintained "local government first, State government second, national government third." Though there is a no returning to the 18th century, strengthening parties may help bring those relationships back into balance.

More say-so by municipal officials over their own affairs will benefit the public in numerous ways, not the least of which is maintaining control of spending and property taxes.

This is not to say that State government does not have a role to play in ensuring that municipalities function properly, particularly financially.

Yet, allowing municipalities to be freed from State mandates and regulations may foster creativity and enhance democracy locally. A stronger political party system that involves local parties can help bring this about.

Unfortunately, recent years have witnessed a serious dismantlement of the State's political party system. In its place has emerged a trend toward independent, outside group involvement that is threatening the very existence of political parties.

The decline of parties

The trend began at the national level following the 2002 enactment of the Bipartisan Campaign Reform Act (BCRA), known as McCain-Feingold, and accelerated due to U.S. Supreme Court rulings that ended restrictions on independent spending by corporations, unions and non-profits.

While federal trends have contributed to the demise of parties in New Jersey, the State's maze of Pay-to-Play restrictions has served as the main culprit in the decline of these historic institutions.

Pay-to-Play, while well meaning, directly weakened political parties by ending all but token contributions from what had traditionally been a major source: public contractors.

It also spurred the growth of special interest political action committees (PACs) and independent groups since many of those same public contractors ended up shifting contributions to these less accountable groups.

Independent groups now dominate elections in New Jersey. During the 2017 gubernatorial and legislative elections, outside groups spent more than triple the expenditures of the two state parties and four legislative leadership committees–$47.5 million compared with $13.3 million.

Just 10 years earlier, those same "Big Six" committees spent 42 times more than outside groups.

The erosion of political parties and rise of outside groups was not limited to the State party entities, however. County and municipal party organizations have been victimized by the growth of independent groups as well.

Aided by special election-year funding by groups like the Democratic Governor's Association (DGA), county organizations spent $14.1 million last year. But that sum still was nearly half the $27 million spent in 2003.

Municipal party committees were not spared either. In 2017, municipal party committees throughout New Jersey spent approximately $4.4 million–half the spending of 10 years earlier.

Even as local party coffers have declined, outside group spending has filtered down to county and municipal elections, even to school board contests.

For example, in 2013, Committee for Economic Growth and Justice, a Super PAC, spent $176,116 on the Elizabeth school board race. That same year Better Education for New Jersey Kids expended $251,629 in Jersey City's mayoralty contest.

In 2014, a total of $5.5 million was spent by independent groups in the Newark mayoralty race. The largest independent group in that race, Newark First, spent $4.5 million versus the $2.2 million

expended by the candidate it supported. Outside group activity also occurred in Trenton's mayoral contest that year.

In 2015, a Washington, D.C.-based Super PAC even involved itself in Parsippany's primary election.

Directing the money

Without change, single issue, special interest groups will not only overwhelm State, county, and municipal parties, but the campaigns of candidates themselves. As this is happening, influence by these groups grows over policy decisions made by elected officials statewide and locally.

For years, well-intentioned reformers have been trying to reduce the amount of money in politics. But these efforts are to no avail. Money somehow always finds its way into the political game. What is important is to direct the money toward areas of the most accountability. This can be accomplished through an electoral system that favors parties and candidates, not independent groups.

The importance of parties

To be sure, political parties may not be a panacea for good government. But they are better than the alternative, which leaves independent, often anonymous groups controlling election outcomes, and therefore government.

Political parties are accountable, highly regulated under New Jersey statutes, disclose all their financial activities, and, importantly, provide a guide to voting.

Throughout the nation's history they have been an integral part of our civil society by serving as a link between families and the government. Critically, they organize government at all levels, including executive, legislative, and judicial functions.

Political parties play a role in organizing City Hall, Governor's offices, and the White House. Borough Councils, Township Committees, State Legislatures, and Congress all are structured on the basis of party. Even municipal, State, and federal courts are filled with judges directly or indirectly connected with political parties.

Reversing the decline in political parties may have a bonus: boosting voter turnout.

Turnout in 1993 statewide elections was 65%. Political parties spent $47 million that year, while spending by independent groups was minimal.

Turnout in 2017 elections was just 36%. Was it a coincidence that independent groups outspent parties $48 million to $26 million?

Strong municipal governments, directly responsible to local citizens, are essential to the overall well-being of the State. Strong municipal parties are a critical component of that paradigm.

The New Jersey Election Law Enforcement Commission (ELEC) has put forth a package of proposals designed to bring commonsense accountability to the electoral process at all levels of New Jersey government.

These proposals would at once strengthen political parties, offset the influence of independent groups, and clear up confusion over Pay-to-Play rules at all levels of government.

The proposals are:

Political Parties

1. Exclude parties from Pay-to-Play limits.
2. Increase contribution limits.
3. Allow State parties to participate in gubernatorial campaigns.
4. Allow county parties to give to each other, even during primaries.

Independent Groups

1. Registration.
2. Disclosure of contributions and expenditures.

Pay-to-Play

1. One State law.
2. All contracts over $17,500 disclosed.
3. End Fair-and-Open loophole.
4. Increase contractor donation limit from $300 to $1,000.
5. Include PACs under the law.
6. Exclude parties from the law.
7. Require contractor donations to independent groups to be disclosed.

STRONGER, HEALTHIER POLITICAL PARTIES COULD MEAN LESS ANGST FOR VOTERS

07/16/2019

Despite Americans holding a long and deep skepticism toward political parties, ironically it could be the parties that restore stability to our polarized political environment.

When the constitutional convention was held in 1787, estimates were that one in six Americans were able to participate in politics, let alone hold public office.

Despite the revolt against British rule, democracy was anathema to the founding fathers.

According to Forrest McDonald, author of the Intellectual Origins of the Constitution "by 1787 a number of Americans had come to believe that even a modicum of democracy was incompatible with security for liberty and property."

Though the framer's purpose in introducing a plan of government was radical for its time, most delegates to the constitutional convention shared with ancient and medieval philosophers the view that democracy was dangerous and would lead to anarchy.

Therefore, they created a republic that would span a vast territory and consist of the states and national government, one that in their opinion would best unify the young nation.

The framers' fear of democracy, believed by many to be a prescription for mob rule, matched their concern over faction, or party. The republic was a form of government they felt would control both.

In Federalist Paper Ten, James Madison wrote, "it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction [party], is enjoyed by a large over a small republic . . ."

While the American system of government is a republic, not a democracy, the fact is that as the years passed America became more democratized. Today's citizens are much more receptive to democracy than past generations. At the same time, skepticism remains toward political parties.

Paradoxically, it could be political parties that provide a cure for a political environment that has become increasingly divided and faction riddled.

Disciplined political parties organize majorities in government that are critical for governing. By organizing executive, legislative, and even judicial functions of government they provide a means by which public policies not only can be enacted but implemented.

As long-standing institutions, political parties provide a training ground for future leaders by enabling individuals to learn first-hand about the relationship between elections and governance, and to gain experience so necessary for bringing people together on behalf of the public good.

In short, political parties encourage leaders to work together rather than at cross purposes and provide an environment that promotes permanent majorities. In contrast, single issue interest groups create division.

Importantly, political parties provide a cue to voters, who today often suffer from information overload, particularly due to the heavy influence of social media.

Even for the most engaged citizen, it can be a daunting to sort through the blizzard of facts provided by broadcast advertising, direct mail, a 24-hour news cycle, and a myriad of social media sites.

Through their labels and symbols, political parties simplify matters for voters, making the buffet of information more digestible.

In this hyper-charged, information-saturated political environment, party affiliation and party labels may be just what is needed to help voters better decide how to vote. In this way, they facilitate their traditional function of providing a link between the people and their government.

Finally, and importantly, political parties turn people out to vote. Because they represent a broad coalition of people, rather than a narrow group of individuals interested in a single issue, political parties are especially equipped to foster an increase in voter turnout through their efforts to get people to the polls. In this time of low voter turnout, this ability is especially valuable.

The New Jersey Election Law Enforcement Commission and its Executive Director have made several recommendations to strengthen political parties in New Jersey.

First, ELEC has recommended raising contribution limits that apply to political parties. Second, it has proposed that state political parties be permitted to participate in gubernational elections. Third, it recommends that political parties be removed from the pay-to-play law while continuing political committees (PACs) be included. Fourth, it has proposed an end to the antiquated ban on county parties donating to each other. Lastly, the writer (not the commission) has suggested a tax credit should be provided to taxpayers contributing to political parties.

Strengthening political parties in New Jersey, which have experienced a significant drop in fundraising at all levels of government, would not only enhance the electoral process but government as well. Political parties, which have the potential to bring about working majorities, may be just what is needed to bring more unity to a fractured electoral and governmental landscape.

FROM TAMMANY HALL TO ANTONIN SCALIA, CONCERNS ABOUT THE DECLINE OF PARTIES

08/06/2019

In a classic political memoir first published in 1905, a long-time legislator and New York ward boss summed up why he thought political parties were essential.

"First, this great and glorious country was built up by political parties; second, parties can't hold together if their workers don't get offices when they win; third, if the parties go to pieces, the government they built up must go to pieces, too; fourth, then there'll be hell to pay," said George Washington Plunkitt (pictured) of Tammany Hall fame.

Plunkett is best known for coining the term "honest graft." To him, it was okay to take a cut of the action as long as it also benefited party and state. Most prosecutors today see that practice as corruption.

While his advice on ethics is suspect, Boss Plunkett's insight into parties so impressed the late U.S. Supreme Court Justice Antonin Scalia that the judge cited the entire quote about parties in his dissent in *Rutan v. Republican Party of Illinois* (1990), a case about political patronage.

In his dissenting opinion, in which he argued against the total elimination of patronage, the Trenton born Scalia also stated:

"Not only is a two-party system more likely to emerge, but the differences between those parties are more likely to be moderated, as each has a relatively greater interest in appealing to a majority of the electorate and a relatively lesser interest in furthering philosophies or programs that are far from the mainstream. The stabilizing effects of such a system are obvious."

At first glance, the concern about parties of both Plunkett and Scalia may seem unwarranted given an analysis just issued by the New Jersey Election Law Enforcement Commission (ELEC). It shows that financial activity by county political party organizations has increased over the four–year period from 2015 to 2019.

The election of 2015 is like the one in 2019 in that just one legislative house- the state Assembly- was up for election at the state level.

According to the analysis, which covers the first two quarters of 2019, Assembly candidates have reported raising $3.2 million and spending $3.3 million. These figures amount to 39 percent and 50 percent more than in 2015 when candidates for the Assembly raised $2.6 million and spent $2.4 million.

At first blush, this is good news for political parties. The increase in financial activity during the four-year period appears to be a step toward reinvigorating the political party system in New Jersey.

County party organizations have historically been the lifeblood of the party system in the Garden State. Any increase in their fundraising is a welcome sign.

Before becoming too optimistic, however, certain immediate factors should be considered before drawing any conclusions. And then there are the long-term trends.

For example, county party fundraising was aided in 2017 by significant contributions from the Democratic Governor's Association (DGA), the Democratic national finance committees, national and state unions, and candidates for governor. In 2018, fundraising was aided by Republican Senatorial Candidate Bob Hugin.

Why this is important is that money can be banked and rolled over from one year to the next, something which did happen during the last couple of years.

To be sure, the skies have brightened somewhat for county parties. However, the long-term trend paints a cloudier picture.

In comparing election year expenditure totals between 2007-2017, it is true spending by county parties declined just 1.4 percent from $14.3 million to $14.1 million.

But going back just a few years earlier shows clearly that county party fundraising used to be far more vigorous.

Combined party fund-raising in 2003 was $27.2 million and spending was $28.1 million. So between 2003 and 2017, fundraising fell 54 percent while spending plummeted 50 percent.

This long-term decrease in county political party financial activity is due largely to laws that sharply curtailed the flow of public contractor cash to county parties as well as to state and municipal parties.

Another important factor- compared to 2003, special interests now are doing far more of their political spending independent of parties and handing over fewer checks to party committees.

The longer-term party fundraising decline should be of serious concern to citizens. It indicates an overall weakening of the party system in general with an attending undermining of the electoral system.

As noted previously, Americans have always looked skeptically upon political parties, believing them to be divisive.

However, despite this skepticism, political parties have been an integral part of the ongoing movement toward greater democracy in America, especially regarding their historic role of contributing to the expansion of voting rights.

In his dissenting opinion in Rutan, Justice Scalia further stated, ". . . we find that political leaders at all levels increasingly complain of the helplessness of elected government, unprotected by 'party discipline' before the demands of small and cohesive interest groups."

The political party system in New Jersey remains in crisis, threatened by the ever–growing influence of single-issue independent groups.

Throughout the gubernatorial and legislative elections of 2013 and 2017, and the congressional elections of 2018, independent groups spent $163 million dollars attempting to influence the outcome of the elections. On the other hand, the more accountable political parties barely spent half that much during the three elections in question.

In order to offset this increasing influence by often completely unaccountable independent groups, it is important for the Legislature to consider legislation that would strengthen the party system in New Jersey.

By organizing majorities in government, disciplined political parties encourage leaders to work together rather than at cross purposes. By contrast, special interest, independent groups foster greater polarization and division within the governmental process.

Political parties serve as a link between the people and their government by organizing all aspects of government; legislative, executive, judiciary, county and municipal. They serve as a guide to voting by simplifying matters for voters through their symbols and labels. Moreover, they specialize in getting– out–the–vote, an issue that has taken on heightened importance in recent years.

The New Jersey Election Law Enforcement Commission has made several recommendations to strengthen political parties in New Jersey and to thereby bring greater balance to the State's electoral and governmental systems.

The recommendations include:

1. Raising contribution limits applicable to parties;
2. Allow state parties to participate in gubernatorial elections;
3. Remove political parties from the pay-to-play law;
4. Include PACs under the pay-to-play law;
5. Allow county party committees to donate to each other.

It is hoped that the Legislature will take up these measures as well as a personal recommendation of mine that a tax credit be provided to taxpayers donating to political parties in New Jersey. Undertaking these steps will lead to a healthier electoral system as well as to improved governance.

REVERSING THE SLUMP OF POLITICAL PARTIES WILL BRING MORE ACCOUNTABILITY AND TRANSPARENCY

09/26/2019

Political parties in New Jersey are in a serious state of decline.

This becomes apparent when comparing their financial activity between two similar election cycles, 1997-2001 and 2013-2017. In each cycle, two gubernatorial elections as well as legislative elections were held.

During 2013-2017, the Big Six state party entities raised only 49 percent of what they raised between 1997-2001. Similarly, between 2013-2017 the two state party committees and four legislative leadership committees spent just 48 percent of what they spent during the earlier period 1997-2001.

County parties have fared slightly better. From 2013-2017, the county organizations raised and spent only 63 percent of the money raised and spent between 1997-2001.

Both groups combined were 56 percent and 55 percent, respectively, of earlier totals.

Campaign Finance Activity by Big Six and County Parties-2013-2017 Versus 1997-2001		
	Big Six*	
Period	**Raised**	**Spent**
2013-2017	$ 43,547,228	$ 44,628,393
1997-2001	$ 88,981,213	$ 92,917,025
2013-2017 Versus 1997-2001	**49%**	**48%**
	County Parties	
2013-2017	$ 50,922,635	$ 49,980,239
1997-2001	$ 80,569,637	$ 79,841,813
2013-2017 Versus 1997-2001	**63%**	**63%**
	Big Six County Parties	
2013-2017	$ 94,469,863	$ 94,608,632
1997-2001	$169,550,850	$172,758,838
2013-2017 Versus 1997-2001	**56%**	**55%**

*Two state parties and four legislative leadership committees.

The harm to democracy and to open, transparent government, cannot be overstated when considering the overall downward trend in party financial activity over the last decade and more.

Many may welcome this trend. Throughout American history there has been a skepticism toward political parties. But in truth the demise of the political party system represents the abdication of an important quasi-governmental institution that has proven to be a significant part of our civil society.

As Marjorie Randon Hershey states in Party Politics in America … "virtually everything important in American politics is rooted in party politics. Political parties are the core of American democracy..."

In today's frenetic atmosphere, driven by a rapidly expanding social media complex that thrives on and feeds into the polarization of American politics, Ms. Hershey's comments perhaps point the way toward a more traditional, though robust politics.

To accomplish this, the strength of the party system must be restored.

At critical times in American history, a steady hand has often been needed to quiet the political waters. Perhaps during these times, political parties may serve this purpose.

Political parties have always provided a map for officeholders to follow while serving the people. By doing so, political parties have helped to moderate politics and control extremism. They help to bring about compromise, thereby building majorities to enact legislation.

By exerting discipline and spotlighting priority issues, political parties give focus to officeholders and guide voters when filling out their ballots.

While having an informed citizenry is a cherished goal, it has been jeopardized as society has become more complicated. The dizzying array of information voters encounter on social media is especially challenging.

Political parties, with their symbols and labels, simplify matters for voters. Since parties stand for certain issues, voters usually know what governmental policies will be pursued by candidates who win.

One of the concerns expressed by political activists is the need to increase voter participation in elections. In other words, low voter turnout has become a persistent worry.

Political parties can serve as an antidote to low voter turnout. One of the traditional roles of political parties has been to turn out the vote.

And they are good at that.

In the 1950's, when the public strongly identified with one of the two major parties, voter turnout was high, somewhere between 65-75 percent of eligible voters, depending upon the election.

Recent years have witnessed a decrease in party identification, with close to 40 percent identifying as independents. At the same time, voter turnout has declined to a low 39 percent in the 2017 gubernatorial elections.

A strong party system, with a traditional focus on getting-out-the-vote can help to remedy that problem.

While there are many reasons for restoring the political party system, none is more compelling than bringing greater accountability and transparency to the electoral process.

Parties are regulated by law. New Jersey's statutory law provides for how parties are to be organized. This open process even allows for primary voters to select county committee people, or those who have an official role in party organization.

Campaign finance law imposes contribution limits on donations to parties and requires ongoing reporting by parties in terms of their fundraising totals and in terms of how much money they spend and for what purpose.

This transparency is in the best interest of the public.

Having traced trends in campaign finance for many years, the Election Law Enforcement Commission (ELEC) has set forth a number of proposals that would strengthen the party system, and thereby democracy in New Jersey.

It has called for increasing contribution limits, allowing state parties to participate in gubernatorial elections, allowing county parties to contribute to each other, excluding parties from the pay-to-play law while including special interest PACs within it, and requiring contractors to disclose contributions to independent groups.

Further, a personal recommendation would be to provide a tax credit for contributions to political parties.

Hopefully, the Legislature will take note of the trends and move on legislation that would strengthen parties and bring greater transparency to the process.

MORE OUTREACH TO LEANERS COULD STRENGTHEN PARTIES AND BOOST VOTER TURNOUT

10/23/2019

In Edward Edwards In this age of the emerging independent voter, strong political parties may be more important than ever.

Though more and more voters initially may describe themselves as "independent" in public opinion surveys, more in-depth studies suggest few voters are truly independent.

This is where political parties can help. Historically, they have been successful at getting voters to the polls. In this time of relatively low voter turnout, strong political parties could be the key to increasing overall voter participation by getting "soft" independents to vote.

Though statistics vary, research into voting behavior pegs the percentage of independent voters as having increased from 20 percent in the 1950's to almost 40 percent today.

These statistics are supported by the most recent ones published by the New Jersey Division of Elections. According to its statewide Voter Registration Summary, published September 30, 2019, 39 percent of registered voters in New Jersey are unaffiliated, or independent.

Independent voters have been largely portrayed favorably by the media. They are held up as the most informed and thoughtful of voters. The focus of pre-election polls, often conflated with swing voters, independents are viewed as pivotal to the outcome of the election.

Believed to be free of partisan ties, independent voters are perceived as preferable to voters who most readily identify with a political party.

To many political scientists and pundits this increase in independent voters has become associated with the decline in the political party system.

At first blush, it does seem as if partisan ties have been loosened, resulting in increased numbers of voters casting their ballots free of partisan leanings. This decline in party identification has ultimately led to weakened political parties.

In-depth research into voting behavior challenges the notion that so-called "independents" have no leanings, even if their loyalty may be more limited than party faithful. They won't necessarily become volunteers or send checks even if they favor candidates from one party or the other. Since there are more independents than Republicans or Democrats these days, the loss of more tangible support is one reason for party decline.

Party officials, however, should take heart from recent research that shows the majority of voters, whether they identify as independent or not, nevertheless base their vote on partisan identification. It suggests outreach efforts by parties to independent leaners likely won't be in vain.

The new research builds upon The American Voter, the seminal study of voting behavior.

Jody C. Baumgartner and Peter C. Francia, authors of Conventional Wisdom and American Elections, assert that "While some have challenged the central role of party identification in vote choice, over time research has clearly demonstrated its powerful influence. This partisan identification develops in childhood under the influence of one's parents."

Thus, voting is just as much a learned behavior as any other aspect of the socialization process.

The percentage of voters identifying themselves as independent has grown. The National Election Study (NES), a survey of voters funded by the National Science Foundation in 1977, shows that the number of people responding independent has grown significantly over the years.

However, this percentage is based on responses to the first question asked in the survey "generally speaking, do you usually think of yourself as a Republican, a Democrat, an independent, or what?"

There is a follow-up question, though, which may be more significant in measuring the true extent of independents in the voting population. To those answering independent to the first question the following question is asked: "Do you think of yourself as closer to the Republican or Democratic party?"

According to Baumgartner and Francia "if we examine this group of independents further and include the response to the second question, we see that the percentage of people who claim to be closer to neither party is rather small."

Thus, there may not be as many pure independents as the statistics suggest, but rather an increase in voters who self-identify as independents but are actually independents who lean toward one party or the other.

While the part of the electorate identifying as independents is increasing, the research suggests that these voters lean toward one party or the other. While perhaps not as loyal as declared party members, they are still influenced by political party preferences.

It should be noted as well that these soft independents tend to vote less often than party identifiers. This depresses voter turnout and provides political parties with an opportunity to boost it. More outreach to independent leaners also could help rebuild parties by persuading them to become more active.

Strong political parties, a major function of which is to rally voters to the polls in favor of their candidates, could easily tap into soft independents who lean toward one party or the other.

These efforts would result in greater participation in elections by voters, whether strong partisans or soft independents, and redound to the public good.

The New Jersey Election Law Enforcement Commission (ELEC) has long championed stronger parties in New Jersey. Several proposals, published on its website and discussed through the years, would work toward a stronger party system.

Better voter turnout as parties tap not only partisan loyalists but independent leaners could be a big win for everyone.

AFTER "I LIKE IKE," POLITICAL PARTIES WERE NEVER THE SAME
04/22/2020

In 1952, an ad endorsing Dwight D. Eisenhower for president made history as the first televised political commercial. Now legendary, the "I Like Ike" ad was not paid for by the National Republican Committee but by "Citizens for Eisenhower."

Though the ad contained the donkey and elephant symbols of the two major parties, the word Republican never appears in it.

It was unsophisticated by today's standards, a simple, black-and-white cartoon with a corny but catchy song, Yet it began the era of individualized, candidate-centered campaigns. It also helped lead to a nearly 70-year decline in the political party system, both at the national and state levels, including New Jersey.

Previous columns have focused on the role independent groups have played in contributing to the weakened party system.

The eye-popping growth in independent expenditures has been fueled by the enactment of the Bipartisan Campaign Reform Act (BCRA) in 2002 and the U.S. Supreme Court decision Citizens United in 2010.

Undoubtedly, independent, dark money groups have contributed to the demise of the party system. At home, dark money organizations spent $47.5 million during the 2017 legislative election only to be surpassed a year later when they spent $49 million attempting to influence the state's congressional contests.

During the 12-year period 2005-2017, independent group spending increased almost 11,500 percent. Throughout the same period, party spending in New Jersey lagged far behind.

It is important to remember that the emergence of independent groups and the demise of the party system are closely linked. Yet, upon reflection, there is more to the decline of parties than merely the onset of independent spending.

In truth, the emergence of dark money groups, rather than being the cause, may be one of the consequences of party decline that began decades ago.

The erosion of the political party system traces back to Eisenhower's simple, jingle-filled, cartoon-like political commercial.

Prior to the 1952 Eisenhower campaign, presidential campaigns were exclusively run by the two national parties. The "I Like Ike" ad paved the way for major changes in the way campaigns would be waged in the future.

During the 1960 presidential contest, individualized, candidate-centered campaigns reached a new level. For the first time a presidential debate was televised, increasing the importance of this relatively new technology.

The two candidates, John F. Kennedy and Richard M. Nixon, were brought into the living rooms of millions of Americans. American voters were now focused on the candidates as individuals rather than their political parties.

The impact was dramatic. Some pundits believe that the debates decided the election.

Interestingly, Richard Nixon would play a role in the furthering of individualized campaigns in both his 1968 and 1972 campaign.

Following his close loss in 1960, Nixon decided to run for governor of California in 1962. After losing to Pat Brown, Nixon held a press conference in which he lamented "you won't have Nixon to kick around anymore, because gentlemen, this is my last conference."

Six years later, however, the resilient Nixon would be elected President. As the result of his defeats in 1960 and 1962, he had learned a valuable lesson. In the new television age of individualizing campaigns, a candidate's image was paramount.

John Kenneth White and Mathew R. Kerbel, in Party On, noted "Richard M. Nixon emulated Eisenhower's approach in 1968 . . . using television to reinvent himself. . ."

In more ways than one, however, the 1968 election was eventful in terms of the furtherance of individualized, candidate-centered campaigns and party demise.

The fractured Democratic presidential campaign that ended in a chaotic convention in Chicago and the nomination of Hubert Humphrey as the Democratic candidate led to major reforms in 1972 and a landslide victory for President Nixon, both of which would hasten party decline.

In 1972, the McGovern-Fraser Commission reforms went into effect. The intent of the reforms was to prevent the party establishment from having control over selecting the presidential nominee, something reformers believed happened in 1968 with the selection of Humphrey.

The long-term result, however, was to create the modern primary system that has contributed to the weakening of the political party system and the promotion of individualized campaigns.

The 1972 landslide victory of Richard Nixon also undermined political parties and advanced the idea of individualized, candidate-centered campaigns.

In its efforts to accomplish the president's reelection, the "Committee to Re-elect the President" focused solely on Nixon's re-election at the expense of any effort to build up the Republican party or help lower level Republican candidates.

Ultimately, the campaign would have as its offshoot Watergate, which would discourage candidates from running on the party label but more importantly usher in an era of campaign finance reforms and legal challenges, many of which would undermine the party system.

More recently, social media, like the advent of TV in the late 1940s and 50s, is taking its turn at striking a blow to the party system and furthering the trend toward individualized candidate-centered campaigns.

Obviously, President Donald Trump, during his campaign and presidency, has used social media expertly to personalize both his campaign and presidency. However, before him was Howard Dean, who ran a virtual internet campaign in 2004. Both, in their turn, have struck a blow to the parties.

But more than either the current President or former Governor of Vermont, the recent netroots challenge to the Democratic establishment and the Tea Party challenge to Republicans served the purposes of campaigns, either for Congress or President, that were candidate-centered and set part from the political party system.

The substantial and continued rise in independent expenditures has critically injured the political party system. This explosive growth was spurred by BCRA in 2002, facilitated by Citizens United in 2010, and in New Jersey, furthered by the Pay-to-Play law in 2006.

Without question, independent groups have been most consequential in weakening political parties and bringing less accountability and transparency to the process.

In truth, however, independent, dark money groups are not the cause but rather the most significant offshoot of an overall trend toward party decline that began nearly seven decades ago. That can only be partly reversed now by legislative reforms.

Parties may never again have the clout they did in 1952.

STRONGER PARTIES COULD REDUCE POLARIZATION

06/11/2020

Despite the antipathy toward political parties that can be traced to the founding of the Republic, political parties, which help elected officials work together and find common ground, may be just the antidote for these highly partisan and combustible times.

Foremost among the many roles of political parties is to organize government. Party leaders influence elections and ultimately government policy. By strengthening parties, compromise and moderation, rather than polarization, is more likely.

American's historical aversion to political parties dates to colonial times when royalists squared off against patriots, then later federalists against anti-federalists.

Upon leaving office President George Washington in his farewell address to the nation said, "Let me . . . warn you in the most solemn manner against the baneful effects of the Spirit of Party."

Washington was unhappy over the factionalism within his own government between rivals Thomas Jefferson and Alexander Hamilton.

Jefferson himself believed that an enlightened public would reject parties while James Madison thought that a growing variety of interests would dampen the unfolding of mass parties.

Though anti-party sentiment existed from the beginning, at least among the elites of early American society, it was not until the Progressive Era of the late 19th and early 20th centuries that an aversion to parties took root among the general population.

In fact, from the 1830's to the 1890's, political parties were an accepted part of American life. This period, which included the onset of mass parties and party machines, coincided with an expansion of the electorate as well as with significant European immigration and America's industrial revolution.

Though the spoils system, with its jobs and contracts for supporters, created potential for misdeeds, nevertheless the political parties had their virtues. They helped immigrants assimilate into the country and adapt to the social disruption wrought by the industrial revolution.

Yet, despite the positive role that political parties played, the inequalities of the industrial revolution and concern about corrupt machine politics aroused reformers, who, by 1910, had coalesced into a progressive third-party movement.

The reforms of the Progressive movement would not only undermine party machines and bosses, but reformers, with the aid of a "muckraker" press, nurtured an overall cynicism toward political parties among a large swath of the population.

The Progressive reforms included primary elections, administration of elections transferred from parties to state governments, the power to oust bad officials through recall elections, and initiative and referendum, which gave the public more direct control over policy.

Moreover, the era brought about amendments to the Constitution that would give women the right to vote as well as direct election of U.S. senators.

While the Progressive Era increased cynicism toward political parties and substantially weakened them, it did not kill them off. Instead, parties survived and became far more accountable to the public.

This fact has implications for today. By strengthening modern parties and their leadership, parties may serve as the solvent that calms the highly charged political environment of current times.

Nationally and in New Jersey, politics and elections have become increasingly influenced by independent groups and social media. From 2005 – 2017, for example, independent spending grew in state elections by almost 11,500 percent compared to party spending that lagged far behind.

Social media, including blogosphere, platforms like Facebook, Twitter, and Instagram, are combining with independent groups to greatly individualize politics, a trend which contributes to polarization, rancor, and overall dissatisfaction and decreasing trust in the institutions of government.

A stronger party system can help to ameliorate this division. Disciplined political parties organize majorities in government that are crucial to governing. As long-standing institutions, political parties have provided a training ground for leadership by allowing individuals to learn about the relationship between elections and governance, and to gain experience necessary for bringing people together on behalf of the public good.

Further, political parties encourage leaders to work together rather than at cross purposes and provide an environment that promotes compromise and the bringing forth of majorities. In contrast, single issue independent groups and social media foster individual politics and division.

In New Jersey, the Election Law Enforcement Commission has put forth several proposals for strengthening political parties.

These include removing tight caps on contributions from public contractors that have seriously depleted party coffers, increasing general contribution limits that have been frozen since 2005, requiring independent spenders to fully disclose their campaign finances just like parties and candidates, and tightening limits on contributions by public contractors to political action committees.

While perhaps not a panacea for changing the political and electoral landscape, strengthening the political party system would go far toward fostering a greater unity in the public square.

NJ POLITICAL PARTIES HAVE BEEN DOWN BEFORE. THEY CAN COME BACK AGAIN
07/13/2020

Recent legislative and judicial trends in campaign finance law have weakened the political party system in New Jersey, which is bad for transparency and accountability.

The good news is that parties have faced similar challenges before and rebounded due to legislative changes that helped revive them. It could happen again if lawmakers adopt pending Election Law Enforcement Commission (ELEC) recommendations.

Some may think the main purpose of campaign finance reform in New Jersey is simply to reduce spending on elections. In reality, many changes have a broader impact because they can affect the entire political structure in the state. For good or ill.

A prime example is the pay-to-play reform movement in the mid-2000s.

A series of bills and executive orders intended to discourage pay-to-play scandals had the effect of drastically curtailing money from public contractors to political parties. The intention was noble and probably has checked some abuses while also requiring far more disclosure by contractors with ELEC.

But party coffers quickly shrank, making them weaker.

Further compounding their woes was the fact that special interest groups, due to federal legislation and court rulings, began spending more of their election money independently instead of sending checks to parties or candidates. Independent spending by these groups has soared since that time. They now often have more influence than parties.

During the period roughly equivalent to the onset of pay-to-play, 2005-2017, independent group spending spiked by almost 11,500 percent. Meanwhile state and county party spending decreased by an average of 29 percent.

Spending by outside groups peaked in 2017 and 2018, years when gubernatorial, legislative, and congressional elections were held, at $47.5 and $49 million. Those amounts were expected to be surpassed this year with congressional seats and a marijuana referendum on the ballot. However, the Covid-19 virus crisis puts that in doubt.

Changes to campaign finance law, sometimes combined with a significant judicial ruling, have altered the flow of money in politics before in New Jersey. Parties sometimes have been the beneficiaries.

Much like today, political parties in New Jersey were virtually on life support in the 1980s. There were numerous reasons but important among them were judicial rulings in the 1960s and reform in the 1970s and early 1980s.

Reapportionment decisions by the U.S. Supreme Court that ultimately would lead to legislative districts apportioned on the basis of one-person-one-vote rather than on the basis of county lines weakened parties, particularly at the county level.

Moreover, gubernatorial public financing in the general election of 1977, which was extended to the primary in 1981, limited party involvement in gubernatorial elections. Further, the enactment of the Open Primary Law in 1981, which denied parties the right to endorse candidates in the primary or give them the party line, worked to weaken the parties. Taken together these events contributed to the enfeeblement of the political party system in New Jersey during the 1980s.

Like today, these actions caused a shift in the flow of money and thereby influence over New Jersey elections. For example, while candidates for State Senate and Assembly spent $11.5 million in the 1987 general election, PAC contributions for those candidates amounted to $2.8 million, an 87 percent increase over the amount they contributed in 1983. County parties, traditionally heavily involved in legislative contests, spent only slightly more than PACs in 1987, at $2.9 million.

In late 1980s and early 1990s, a judicial ruling along with campaign finance reform, again would change the trajectory of campaign dollars, this time toward political parties and away from special interest PACs.

An ELEC White Paper written by me in 1997 stated, “On February 22, 1989, the United States Supreme Court made a landmark decision that would impact the role of party organization in New Jersey . . . . The decision (Eu vs. San Francisco County Democratic Central Committee) held that a ban on primary endorsements violated the First Amendment . . .”

New Jersey’s Open Primary Law was therefore affected. It was determined that the Eu decision applied to New Jersey. It lifted the ban on primary endorsements by parties, and in turn strengthened them by putting parties back in the nomination process.

Following the 1989 Supreme Court decision, the Legislature established the Rosenthal Commission, chaired by the late Eagleton Institute Professor Alan Rosenthal. The Commission ultimately would recommend reforms to campaign finance and lobbying laws, some of which were proposed earlier in ELEC White Papers.

Among the changes that took effect in 1993 were those that strengthened political parties. One such change gave parties a significant advantage in raising funds subject to contribution limits while the other allowed parties to contribute unlimited amounts of money to their candidates.

This built-in advantage enabled parties to dominate the electoral process by becoming flush with money as special interest PACs inevitably were diminished in terms of spending and influence.

But party dominance didn't last long.

As noted above, political parties would once again fall prey to lessened importance and influence following the enactment of pay-to-play reforms in 2006, a development that would be reinforced by *Citizens United v. FEC* in 2010, which set loose more independent spending by unions and corporations.

The aforementioned examples show that the flow of money in politics and elections is dictated by changes to statutory law. Sometimes judicial rulings accelerate the changes.

Understanding these patterns can better equip decision makers in New Jersey to fashion laws that better serve the public good by directing money in ways that bring greater accountability to the electoral process. ELEC has set forth recommendations that would help create that accountability by strengthening political parties and putting them in better position to offset the growing influence of independent groups, which often operate in secret with little public oversight.

These recommendations include: electioneering communication disclosure by outside groups, inclusion of PACs under pay-to-play and exclusion of parties under the law; party participation in gubernatorial elections; increased contribution limits for parties; and, pay-to-play disclosure by independent groups. As a personal recommendation, I would add tax credits for contributions to parties and candidates.

It is hoped that the Legislature will consider these common-sense recommendations.

NOT ALONE IN THINKING STRONGER POLITICAL PARTIES WILL IMPROVE OUR POLITICS
08/10/2020

Since 2010, on websites such as InsiderNJ.com and other places, I have repeatedly expressed my longstanding concern about New Jersey's weakened party system, the impact of McCain/Feingold reforms in undercutting parties and spurring the growth of independent groups, and the potential for parties to play a role in returning civility to politics.

Here are some of my thoughts:

- McCain/Feingold is what started the stampede toward the creation of independent, outside groups; a development that resulted in less transparency and less accountability in the area of campaign finance (2010)."
- "In the years between McCain/Feingold and 2010, U.S. Supreme Court decision in Citizens United v FEC, independent spending grew over 1,000 percent . . . so in the wake of McCain/Feingold there has been a seismic shift in the electoral landscape. There has been tremendous growth in independent groups along with a rapid decline in transparency (2012)."
- "But in truth the demise of the political party system represents the abdication of an important quasi-governmental institution that has proven to be a significant part of our civil society (2019)"
- "Despite Americans holding a long and deep skepticism toward political parties, ironically it could be the parties that restore stability to our polarized political environment (2019)."
- "The Bipartisan Campaign Reform Act (BCRA) often referred to as McCain/Feingold, was enacted in 2002. Though well meaning, McCain/Feingold sparked the rise in dark money spending and a spate of legal action (2020)."
- "Despite the antipathy toward political parties that can be traced to the founding of the Republic, political parties, which help elected officials work together and find common ground, may be just the antidote for these highly partisan and combustible times (2020)."

While these concerns were set forth in my columns throughout the years, numerous others have and are expressing similar concerns in books, academic journals and online posts.

A recent post by Rick Hasen, Professor of Law and Political Science, University of California, discusses an article in the Election Law Journal by Richard Pildes, Constitutional Scholar at NYU Law.

Hasen stated, “this article assesses how the rise in contributions from organizations outside of political parties affects the unity or disunity of the party caucus in the Legislature. With highly polarized political parties, party fragmentation makes all the more difficult the building of effective governing coalitions.”

In his own post, Pildes writes “for several years now, I have been arguing that political fragmentation within both parties is a major element in why government in America has become more difficult . . . I have also suggested, along with others, that the rise of outside money—starting with McCain/Feingold law . . . is one of the forces driving the fragmentation within parties.”

A more extensive work by Pildes laid the foundation for his recent article and post. As part of the Ralph Gregory lecture at Yale Law School, Pildes previously presented an article published in the 2013-2014 edition of the Yale Law Journal. In it he wrote: “If the analysis is correct, stronger parties or parties stronger in certain dimension ironically might be the most effective vehicle for enabling the compromise and deals necessary to enable more effective governance despite partisan divide.”

Professors Hasen and Pildes make important points about the connection between parties and good governance and their potential for the amelioration of the polarization in politics. Moreover, they allude to the role played by McCain/Feingold law in spurring the growth of independent groups.

As argued in numerous columns, a stronger party system can indeed help to soften the divisions that exist in our politics today. Disciplined political parties organize majorities in government that are crucial to governing. As long-standing institutions, political parties provide a training ground for leadership by allowing individuals to learn about the relationship between elections and governance, and to gain experience necessary for bringing people together on behalf of the public good.

Political parties also encourage leaders to work together, creating an environment that promotes compromise and establishment of majorities. Unlike independent groups, which often promote single issue politics, parties organize the executive, legislative, and even judicial functions of government, thereby providing a means by which public policies can be enacted.

As Marjorie Randon Hershey writes in her book Party Politics in America . . . “virtually everything important in American politics is rooted in party politics. Political parties are the core of American democracy. . .”

In this spirit, the Election Law Enforcement Commission (ELEC) has made proposals for strengthening political parties including:

1. Removing parties from pay-to-play;
2. Including special interest PACs under pay-to-play law;
3. Disclosure of contributions and expenditures by independent groups making both express advocacy and electioneering communications;
4. Allowing parties to participate in gubernatorial elections; and
5. Increasing contribution limits applicable to parties.

Strengthening parties would bring about more effective government and unity in the public square. Hopefully as life begins to return to normal the Legislature will consider the above proposals for strengthening New Jersey's party system.

EVEN WITH A RECENT LAG, SPECIAL INTEREST PACS ENJOY BIG FUNDRAISING EDGE OVER PARTIES
9/21/2020

More evidence of the decline of the political party system in New Jersey comes from statistics published recently by the Election Law Enforcement Commission (ELEC) that compared fundraising by parties and special interest PACs[1] during the first six months of 2010.

The first six months of 2020 witnessed the big six party entities, which include the two state parties and four legislative leadership committees, raising $1.3 million. While the pandemic undoubtedly took its toll, nevertheless this amount continued the downward trend in party financial activity and is the least raised since 2007.

County party organizations continued their downward slide as well, raising $1.955 million during the first two quarters of 2020, their lowest fundraising total in 20 years.

Compare their combined total of $3.3 million to the fundraising haul reported by 235 union, business, regulated industry, trade association, and professional association PACs for the first half of 2020.

The special interest PACs raised $22.3 million during this period of time, though their financial activity did slow during the second quarter, most likely due to COVID-19.

The $3.3 million combined fundraising total reported by the state and county party entities amounted to 15 percent of the money raised by the special interest PACs during the same period of time.

Looking back a decade ago to 2010, parties also were at a disadvantage even then. But the gap wasn't nearly as large.

The Big Six and county parties raised $4.2 million during the first six months of 2010 versus $12.2 million by special interest PACs. Party fundraising represented 35 percent of the PAC fundraising.

Party Versus PAC Fundraising First Six Months- 2010 versus 2010			
Year	Parties	PACs	Parties/PACs Ratio
2010	$4,246,323	$12,226,241	35%
2020	$3,297,511	$22,322,674	15%
Difference-$	$(948,812)	$10,096,433	
Difference- %	-22%	83%	

It is important to note as well that this ratio of PAC fundraising to party fundraising does not even factor in financial activity of independent spending by special interest groups, which has dwarfed party activity during the last decade.

Unlike traditional political action committees, which are subject to contribution limits and are required to disclose all their contributions and spending, independent spending committees face no such limits and often avoid public disclosure rules.

Independent groups, for instance, spent $48 million during the 2017 Assembly and State Senate contest and about $50 million in the 2018 congressional election in New Jersey. During the 12-year period, 2005-2017, their spending increased exponentially by 11,458 percent just in state elections.

The undeniable message to voters of these statistics, repeatedly chronicled in columns, white papers and analytical reports released by ELEC, is that the driving force in New Jersey elections is no longer political parties, or even the candidates themselves.

Instead, it is conventional PACs and independent groups run by special interests.

While the First Amendment protects participation by interest groups, which is welcome, the current situation by which special interests are the dominant influence in elections does not bode well for democracy.

Some would say, perhaps rightly, that the genie is out of the bottle, and that trying to return parties and candidates to their preeminence is a futile goal.

But the history of campaign finance law suggests otherwise. Changes to campaign finance laws have redirected the flow of money before in New Jersey and transformed its politics. It can do so again.

A recent column in Insidernj.com entitled, "NJ Political Parties Have Been Down Before. They Can Come Back Again," traced reform in New Jersey and its connection to transforming electoral politics in the State.

The most recent example was the 2006 pay-to-play reforms. These reforms undermined a robust party system that was brought about by the 1993 Campaign Finance Reforms. The 2006 reforms helped usher in the current period of weak parties and special interest independent group dominance.

Bipartisan proposals put forth by ELEC would try to restore balance within the electoral system by strengthening political parties and offsetting the influence of special interest independent groups.

Commission recommendations include: election-related disclosure by independent groups, including disclosure of donations; including PACs under pay-to-play law and excluding parties from the law; allowing parties to participate in gubernatorial elections; raising general contribution limits for parties; and, mandating that contractors annually disclose their contributions to PACs and independent groups.

Though not a commission proposal, tax credits for contributions to parties and candidates may help as well.

Political parties have always been an integral part of politics in America and restoring their strength and vitality would not only bring them back into the flow of money but also into the flow of politics and elections in New Jersey.

FIXING THE 'BROKEN WINDOWS' OF POLITICAL PARTIES COULD EASE TODAY'S POLITICAL DIVIDE
11/12/2020

Stronger political parties may calm the turbulence engulfing politics and government today.

The uncertainty and distrust on both sides surrounding the recent presidential election has made even rockier the road politics and government has taken in recent years.

This recent and deepening wave of cynicism should be of grave concern no matter the side.

There is always going to be some level of political tension between presidents and Congress, governors and state legislatures, or within legislative bodies.

When polarization runs so deep that it undermines trust in elections, it takes on a whole new -and worrisome- dimension.

How can the nation escape this civic morass?

In policing, there is the broken windows theory first described in 1982 by social scientists James Wilson and George Kelling. Supported by some, disparaged by others, the theory holds that if a window in a building remains broken and is not repaired, more damage will follow.

"One unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing," the scientists wrote in The Atlantic. Conversely, if a window is repaired, it will impede further damage to the building and even lead to improving its overall quality.

Applying the same theory to politics, leaving parties broken may lead to further damage to the political climate. Fixing parties could improve it.

According to Pew Research in 1960 over 70 percent of the people identified with one party or the other. Likewise, a similar percentage indicated that they trusted government.

By 2015, however, Pew Research found that party identification had declined to 52 percent while trust in government decreased to about 20 percent of the population.

Stronger parties may give a boost to politics and government by reversing the downward trends in party identification and trust.

Not that it is an easy fix.

Unquestionably, skepticism toward political parties has been part of the nation's political culture from the beginning of the republic.

Factionalism between Alexander Hamilton and Thomas Jefferson within the Washington administration prompted the nation's first president to warn against parties in his farewell address to the nation.

To many, political parties are bastions of corruption headed by party bosses whose selfish interests lead them to dole out patronage, public contracts, and no-show jobs in return for the loyal support from those who benefitted from the largess of the party.

Tammany Hall, "Boardwalk Empire" and other historic examples may make this seem like the norm. Fortunately, the vast majority of party officials are dedicated people who are NOT corrupt. Parties functioning properly truly benefit society.

Noting that political parties are central to our electoral and governmental systems, Professor Marjorie Random Hershey writes in "Party Politics in America" . . . Both major American parties can trace their histories more than 150 years . . . The parties are there as points of reference year after year, election

after election, and candidate after candidate, giving continually to the choices Americans face and the issues they debate."

Most importantly, in terms of the current polarization that plagues our politics, a stronger party system can help to soften the divisions that exist today. By virtue of party discipline, they can organize majorities in government that are crucial to governing.

In addition to providing a training ground for leadership, these historical institutions help to build relationships, even across party lines, so critical for bringing people together for the common good.

By encouraging leaders to work together, parties can create an environment that promotes compromise and encourages the establishment of majorities.

Disciplined parties that serve to ease the passage of legislation and work to bring about agreed upon public policies will go far toward ameliorating the fragmentation and polarization that marks our politics today.

In doing so, political parties, which Hershey has said are at the "core of American democracy," could assume the role of the repaired window that rebuilds trust in the very foundation of our government.

In the spirit of strengthening political parties in New Jersey, the Election Law Enforcement Commission has made several proposals.

They are: remove parties from pay-to-play restrictions; include special interest PACs under pay-to-play law; disclose contributions and expenditures by independent groups making both express advocacy and electioneering communications; allow parties to participate in gubernatorial elections; and increase contribution limits applicable to parties.

Hopefully, the Legislature will consider these proposals and fortify the party system in New Jersey.

HEAVY RELIANCE ON EXECUTIVE ORDERS SHOWS NEED FOR STRONGER POLITICAL PARTIES

3/3/2021

These are unsettling times. Social unrest, braced by an increasingly polarized politics, made worse by the pandemic, has brought about a heightened sense of division in society and dissatisfaction with government.

Given the circumstances, it may be time to take a serious look toward strengthening political parties as a means of restoring regular order to government and calmness to society.

Gladden Pappin, Assistant Professor of Politics at the University of Dallas, writing in American Affairs, pointed out that "satisfaction with American political institutions is decreasing."

In his February 2020 article Pappin continued, "It is evident that there is no institution within which the country's disparate interests can negotiate their differences with real consequences for political decision-making."

Political parties may be able to fill this void. As important historical institutions, they have been an integral part of American electoral and governmental processes. As such, they can help restore trust and efficacy to government and decision-making.

Americans right now feel alienated toward their own government.

No better example exists than the seeming blind eye they show toward the use of executive orders by recent presidents to effectuate policy.

If government was working effectively the Congress would address policy making through the legislative process rather than surrendering its responsibility to presidents who have turned to executive orders to bring about policies.

There has been little public outcry over the use of executive orders. This suggests the public wants government to get things done, regardless of whether the best constitutional process is followed.

Article I, Section 7 of the U.S. Constitution sets forth the process for passing legislation. Laws should be enacted by Congress subject to presidential veto and potential override.

Too often, however, presidents have relied on executive orders to bypass Congress in order to bring about policies that remain stalled due to congressional inaction.

An executive order is supposed to direct the bureaucracy as to how to implement legislation. However, presidents have come to rely on executive orders to cut through the quagmire that plagues

Congress. In doing so, presidents look to Article II of the Constitution to justify their use of executive orders.

Article II vests the executive power in the president and states that the president shall "take care that the laws be faithfully executed."

President George Washington was the first to issue an executive order. But he issued just eight during two terms. President Lincoln relied on an executive order to declare the Emancipation Proclamation. He issued a total of 48.

President Franklin Roosevelt set the record with 3,721 over four terms. But he was struggling to save the country from the Great Depression and World War II. A major- and legitimate- purpose for executive orders is to deal with emergencies.

It is not that executive orders constitute a new approach to using executive power. Used properly, they are an effective tool for managing the bureaucracy. Nor should it be assumed it is always an abuse of power. It is just that in recent years, the deluge of executive orders often has been viewed as an attempt to make law rather than to clarify it.

The last five presidents, which includes President Biden, have readily used executive orders. They have been employed as follows: Clinton 364; Bush 291; Obama 276; and Trump 220. In the first month of his administration President Biden has issued 32 executive orders, according to the federal register.

It has been noted by political scientists that a government divided, with high levels of dissatisfaction associated with it, is less able to accomplish goals. This being the case it is understandable that in present times presidents would be more inclined to use executive orders, and the public more inclined to accept them to move public policy forward.

This public attitude toward the government may be a harbinger of a changing political culture in America. The people are becoming more complacent in the face of a Congress that cannot seem to get its act together.

Compromise is hard to achieve when parties are ideologically opposed and weak. Adding to the gridlock are the disparate special interests that seek to influence those parties and the legislative process. It seems the public is becoming more accepting of strong action to bring about resultssomething Alexander Hamilton would have preferred.

This is where political parties may come in. As historical institutions that have been integral to the government and electoral processes, they can be instrumental in stemming the tide toward a rush to

executive oriented government and polarized politics. Parties can help to foster a healthy balance between the legislative and executive sides of government.

Political parties organize government and through discipline can bring about compromise between opposing interests. Strong parties have always encouraged leaders on opposing sides to work together, thus encouraging majorities to form and policies to be enacted. Unlike independent groups, which in recent years have grown in influence, contributing in turn to the segmentation of American politics, political parties can be useful in bringing disparate groups to the bargaining table to find solutions to what seem to be intractable problems.

There could be no better prescription for a now polarized and teetering nation.

In New Jersey, which is not facing the same problems as face those in Washington D.C., there nevertheless has been an issue with a weakened party system. Through columns like these, analytical press releases, and white papers, the Election Law Enforcement Commission (ELEC) has demonstrated that a weakened party system has taken a back seat to ever increasing activities by independent groups.

While it is up to Congress to act on the national level, ELEC has set forth numerous proposals that would strengthen political parties, offset the growing influence of independent groups, and forestall and avoid any severe polarization of the state's governmental processes.

The proposals include removing parties from pay-to-play; including PACs under pay-to-play; increasing contribution limits frozen since 2005; requiring independent groups engaged in election related activity to disclose contributions and expenditures; allowing parties to participate in gubernatorial elections; and requiring public contractors to disclose contributions to independent groups.

Strengthening parties would bring about more effective government and unity in the public square by bringing about compromise between competing interests. By taking up these measures the Legislature can accomplish the twin goals of an even more effective government and unity within the civil society.

Strengthening parties at the federal level would help to bring back constitutional balance between Congress and the executive branch.

STEPS TO STRENGTHEN POLITICAL PARTIES REMAIN NECESSARY DESPITE DEEP-SEATED DISTRUST
9/13/2021

When a major campaign finance bill was introduced during the previous legislative session in 2019, it contained provisions that would have financially strengthened party organizations in New Jersey.

The bill's main purpose was to require independent spending committees that often operate with little or no disclosure- so-called "dark money" groups"- to abide by the same disclosure standards as candidates, parties and traditional political action committees.

The bill also contained a big boost for political party committees. It would have let them accept larger checks from political donors. Another section would have given county parties more influence over primary elections by freeing them to make unlimited transfers between their committees.

Both changes were dropped from the bill, which became law but was struck down by a federal judge because of other provisions he deemed unconstitutional.

ELEC continues to believe that disclosure by dark money groups and stronger political parties remain urgent priorities to help correct a major imbalance in the financing of New Jersey elections.

Party contribution limits have not been raised since 2005.
County-to-county transfers during primaries were banned as part of a 2004 reform package entitled "Restoring the Public Trust."

Termed "wheeling," transfers of money between county parties were viewed more as a way for wealthy donors to bypass contribution and spread their money around. It also was designed to limit the influence of county bosses over primaries.

During the past 15 years, however, party committees have become weaker because of these and other restrictions. At the same time, many special interest groups have opted to give less money to parties and instead spend more of their money independently on elections.

In 2005, the two state parties, four legislative leadership committees and 42 county parties together spent $38.7 million compared to just over $411,224 spent by independent groups. By 2017, independent group spending in New Jersey elections had increased 12,495 percent to $52.4 million.

During the same period, the collective spending of the "Big Six" and counties dropped 29 percent to $27.5 million.

As a result, independent groups in 2017 spent nearly twice as much as the 48 state and county party committees in New Jersey combined.

Spending on Gubernatorial and Legislative Election			
Year	**2015**	**217**	**Change %**
Big Six	$19,667,905	$13,348,131	-32%
Counties	$19,009,467	$14,114,921	-26%
Total Party Committees	$38,677,372	$27,463,052	-29%
Independent Spending By Special Interests	$ 411,224	$51,794,326	12,495%

Additional data shows "dark money" also is growing in New Jersey federal elections. In the 2018 congressional election, independent groups spent 600 percent more than the parties, $50 million to $8.1 million, respectively.

While legitimate concerns about past abuses involving party bossism and corruption spurred efforts to rein in party officials, the fact remains that political parties are more transparent and accountable than many of the independent groups that are flourishing in recent elections.

Letting these increasingly powerful and often secretive entities dominate elections may create even more potential for corruption.

Just ask citizens of Ohio.

A scandal involving $60 million in dark money erupted in Ohio over a year ago with a major federal indictment. So far, it has led to the indictment and ouster of the state's House Speaker (though he insists he is not guilty), a utility paying $230 million in fines, guilty pleas by two individuals involved in the alleged conspiracy, an 162-count complaint filed by the state's campaign finance agency, and multiple reform bills.

New Jersey shouldn't wait for such a scandal to enact its own reforms.

Unfortunately, distrust of political parties is deeply ingrained and dates back hundreds of years.
This skepticism toward political parties can perhaps be traced to 17th century England and the reign of King Charles II (pictured).

As was characteristic of the Stuart Era in England (1603-1689), a dispute emerged regarding the Anglican faith as the official religion of England.

Thomas Osborne, principal minister to King Charles II and Earl of Derby, identified the King as favoring the Anglican cause. Osborne and his followers were opposed by Anthony Ashley Cooper, the First Earl of Shaftesbury. As a versatile politician, the Earl of Shaftesbury cooperated with the effort to restore the monarchy, but at the same time favored religious toleration.

Stuart Era historians point to the factions that emerged over this religious divide- the (royal) "court" and the "country" – as the first modern examples of political parties.

Despite the emergence of party loyalty, individuals belonging to each faction refused to call themselves a party because they feared it might foster disunity. Thus skepticism toward political parties began soon after their birth.

These factional differences became all the more apparent during the reign of Queen Anne (1702-1714). Though Anne attempted to remain above party strife, Peter Ackroyd, author of 'Revolution' quotes her saying "if I should be so unfortunate as to fall into the hands of either (Tory on Whig parties), I shall look upon myself . . . to be in reality their slave."

Ackroyd, referring to Queen Anne, comments: "She disliked and distrusted the violent partisans on both sides."
A few years later, this distrust of parties was advanced by satirist Jonathan Swift in Gullivers Travels, published in 1726. Swift wrote: "They (Tory and Whig) will neither eat nor drink, nor talk with each other."

This early reluctance about party, as with many traditions and customs, was adopted by Americans.

President George Washington in his farewell address to the nation in 1796 said "the common and continual mischief of the spirit of party are sufficient to make it the interest and duty of wise people to discourage and restrain it."

Upon writing to Thomas Jefferson he said: "I was no party man myself, and the first wish of my heart was, if parties did exist, to reconcile them."

In 1838, at the Young Men's Lyceum in Springfield, Illinois, Abraham Lincoln said "party passion has helped us; but can do no more, it will in the future be our enemy."

During the Progressive Era, reforms were enacted to blunt the influence of corrupt party machines. These reforms included government regulation of elections, voter registration, civil service, as well as constitutional amendments that gave women the vote and established direct election of U.S. Senators. Interestingly, the constitutional amendments had the support of the political parties of the day.

These reforms, while diminishing political parties, nevertheless were necessary at the time because they made parties more accountable and subject to statutory law. They did, however, help further instill skepticism toward parties in the public mind.

Further diminishment of political parties is no longer necessary and, in fact, may be counter-productive because of the emerging dominance of less accountable, less transparent "dark money" groups over the electoral process.

Political parties represent a broad coalition of people, organize government, and in this social media age of information overload they provide a guide to the individual voter who can look to the party label for help in understanding where candidates stand on the issues. On the other hand, independent groups provide no link to the candidates and therefore only contribute to overall confusion and lack of information on the part of voters.

Further, political parties disclose their financial activities, help to organize majorities in government and through so doing can bring compromise to an often-polarized governmental process.

There are numerous other reasons why modern-day political parties are good for government, not the least of which is that they get voters to the polls, something needed as voter turnout trends downward.

The Election Law Enforcement Commission has put forth the proposals for strengthening political parties and bringing transparency to independent groups involved in electioneering activity. It is hoped that the Legislature will consider the need to strengthen the parties as a way to further good government in New Jersey.

The recommendations include: remove parties from pay-to-play, include PACs under pay-to-play, disclosure by independent groups of contributions and expenditures in the context of electioneering, allow parties to participate in gubernatorial elections, increase contribution limits to parties, allow county to county transfers.