

PREDICTING CAMPAIGN SPENDING IN STATE SUPREME COURT ELECTIONS

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Abstract

While some scholars have recently turned their attention to state supreme court elections (Bonneau 2002; Bonneau and Hall 2000, n.d.; Hall 1992, 1995, 2001a, 2001b), our knowledge of these elections still pales in comparison to their U.S. and state legislative counterparts. One area about which we are particularly ignorant is the role of campaign spending in elections for the state high court bench.

In other work (Bonneau 2002), I have explored the role of campaign spending on the electoral performance of candidates for the state supreme court. In this paper, I focus on the total amounts of spending for a state supreme court seat. The amount of campaign spending occurring in elections to the state high court bench has been skyrocketing, if one believes the countless popular reports. Further, this proliferation of spending has been said to have negative effects on the impartiality of the judiciary. In this paper, I answer two questions:

1. Has campaign spending in state supreme court races been increasing?
2. What are the determinants of campaign spending? Under what conditions will elections to the state high court bench be more or less expensive?

Introduction

Those who live in states where judges are elected (particularly judges for the state supreme court) cannot help but be bombarded by criticisms of these elections in the press. These criticisms come not only from the media (Dickerson 2001; Marks 2001; Marks and Hoke 2001, Pittsburgh Post-Gazette 2001; Wenzel 2001; Campbell 2002) but also from the judges themselves (Glaberson 2000b; Davidson 2001; Huggins 2001; Elliott 2002; Phillips 2002). Criticism of these elections has increased in recent years as elections to the state high court bench have become “noisier, nastier, and costlier” (Schotland 1985, 76). Two pieces of conventional wisdom have come out of the debate surrounding state supreme court elections: judicial elections are becoming more expensive (e.g., Schotland 1985, 2001; Glaberson 2000a; Farmer 2001; Lewis 2002; Orndorff 2002; Salter 2002) and the increased campaign spending in judicial elections has led to the erosion of the public perception that judges are impartial and unbiased (e.g., Wohl 2000; Popkey 2001; Campbell 2002; Elliott 2002; Hampton 2002; Neff 2002).

In this paper, I focus my attention on the first piece of conventional wisdom. Looking at all contested state supreme court elections over a 10-year period, I evaluate the claim that state supreme court races are becoming more expensive. Further, I attempt to explain the amounts of money spent in races for the state high court bench. If campaign spending can be understood in a predictable, systematic manner, then it may be

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possible to respond to critics of judicial elections without eradicating them as a means for selecting judges.²

Independence versus Accountability

One of the longest ongoing debates in the judicial politics literature (especially the literature dealing with state courts) revolves around whether or not judges ought to be appointed or elected (Watson and Downing 1969; Dubois 1980; Lovrich and Sheldon 1983; Culver and Wold 1986; Champagne and Haydel 1993; Sheldon and Maule 1997; Aspin et al. 2000). Those who believe that judges should be freed from as many constraints as possible argue that state supreme court judges should be appointed (preferably for a life-term). This allows judges to focus on interpreting the law and subjects them to as few political considerations as possible. On the other hand, those who believe that judges, like their executive and legislative counterparts, ought to be held accountable to the citizens of a state for the decisions they make on the bench argue that judges should be elected. This allows the public to punish renegade judges and ensure that the decisions of the state high court do not deviate too far from the preferences of the citizenry.

While the debate over the propriety of the election of judges is interesting and important, whether or not it is better for judges to be appointed or elected is not the subject of this paper. Indeed, this paper is agnostic about whether judges should, or

² Of course, some critics oppose judicial elections on the grounds that judges should never be held accountable to the electorate (see the discussion in Watson and Downing 1969; Dubois 1980; Lovrich and Sheldon 1983; Culver and Wold 1986; Champagne and Haydel 1993; Sheldon and Maule 1997; Aspin et al. 2000). Regardless of the evidence presented here, these critics will continue to maintain their opposition to the electing of judges. However, the data presented in this paper do speak to those who in principle do not oppose electing judges and are primarily concerned with campaign spending and its effects.

should not, be elected. Rather, given that there are elections to the state high court bench, this paper seeks to explain the amount of money that is spent in these elections. Understanding the conditions under which more (or less) money is spent on campaigns for seats on state supreme courts will further our understanding of the dynamics by which the majority of judges attain and retain their positions on the bench.

The Importance of Campaign Spending

Implicit in the criticism of the increasing amounts of campaign spending is the notion that campaign spending by judicial candidates has negative consequences for the judiciary. Otherwise, why would there be a concern that the impartiality of judges is being compromised by such spending? However, it is far from clear that campaign spending (even such spending by candidates for the state high court bench) has negative consequences (or at least has no positive consequences). Minimally, there are two perspectives on the utility of campaign spending.

On one side of the debate are those who believe that “campaign spending, especially in unlimited amounts, is clearly the bane of democracy” (Coleman and Manna 2000, 758; see also Wertheimer and Manes 1994; Ferguson 1995). These people believe that not only do candidates waste time to campaign and raise money (time that could be better spent performing duties related to their office), but also that incumbents are systematically advantaged and hence electoral competition is reduced. Moreover, spending campaign money on “cynical, negative, and misleading campaign advertisements” leads the electorate to become “distrusting, or, worse, apathetic and uninvolved, and [thus] campaign spending fails to enlighten, engage, or educate the

public” (Coleman and Manna 2000, 758). That is, not only does campaign spending serve to protect those in office and decrease electoral competition, but it also contributes to the general apathy of the electorate and distrust of the government. Further, as stated earlier, campaign spending in judicial elections calls into question the impartiality and fairness of those on the bench (e.g., Wohl 2000; Popkey 2001; Campbell 2002; Elliott 2002; Hampton 2002; Neff 2002).

On the other side of the debate over the funding of elections are those who argue that campaign spending is a form of free speech and thus that campaign spending ought not, and cannot, be constitutionally regulated. Further, it is believed that “[m]ore speech means more information, and more informative produces an enlightened and active citizenry” (Coleman and Manna 2000, 757; see also Palda 1994; Smith 1996, 1999; Brubaker 1998). This is especially important in judicial elections since these elections are characterized by low levels of information and saliency to the electorate (Klots 1955; Johnson, Schaefer, and McKnight 1978; McKnight, Schaefer, and Johnson 1978; Dubois 1979, 1984; Griffin and Horan 1979; Schotland 1985; Aspin and Hall 1987, 1989; Champagne and Thielemann 1991; Jackson and Riddlesperger 1991; Moog 1992; Arrington 1996; Reid 1996; Klein and Baum 2001). Viewed in this way, campaign spending can have positive as well as negative effects and may lead to more competitive elections and more informed choices being made by the electorate.

Empirically, there is evidence to suggest that campaign spending does indeed increase the knowledge level of the electorate. Examining elections to the U.S. House in 1994 and 1996, Coleman and Manna (2000, 783), conclude that

[C]ampaign spending neither decreases political trust, efficacy, or interest in and attention to campaigns. Spending does contribute to knowledge

and affect. Accurate perceptions of the incumbent's record are generally improved by incumbent spending and reduced by challenger spending, in practice typically producing a net result of more accuracy and more competitiveness. ...

Further, Alvarez (1997, 204) finds evidence that “uncertainty [about the candidates] generally diminishes across the course of a presidential campaign in response to issue and substantive information.” Thus, contrary to those who bemoan the increased spending in judicial elections, there is some reason to believe that voters benefit from the candidates spending money, if races for the state high court bench are similar to presidential and House elections—which there is some reason to believe that they are (Bonneau 2002; Bonneau and Hall 2000, n.d.; Hall 2001a, 2001b).

Data

I examine all contested state supreme court elections from 1990-2000. In order to properly specify the models, I collected data on both the characteristics of the candidates and of the elections. I extensively use Hall's (2000) dataset on state supreme court elections from 1980-1995.³ I supplemented the Hall dataset through the year 2000 and collected campaign spending data on all contested races from 1990-2000. This dataset is the most comprehensive dataset to date on judicial elections.

I limit my analysis to contested partisan and nonpartisan races. That is, justices who stand for retention are excluded from this study. While one could argue that justices up for retention are more similar to justices in contested partisan and nonpartisan races than they are to justices running unopposed in these elections (since justices in retention races can lose their bid to retain their seat by not gaining a majority of “yes” votes, while

³ See Hall (2001a) for a discussion of this dataset.

candidates running unopposed have no chance of losing), they are not studied here for a couple of reasons. First, justices in some retention states are prohibited from campaigning for office. Thus, there is no campaign spending data for candidates in these states. Additionally, even when justices are not legally prohibited from campaigning, they very rarely report any campaign activity. In sum, there is very little campaign information available on retention races.

Further, while retention races are similar to contested partisan and nonpartisan elections in that an incumbent has the potential to lose the election, they are different from contested elections in other important respects. First, the average vote for the winning candidate in retention elections is significantly higher than the average vote for the winning candidate in both partisan and nonpartisan elections. Aspin et al. (2000) report that the mean affirmative vote for retention candidates from 1964-1994 was 74.9%. Further, for the period under examination here (1990-2000), the mean affirmative vote was 69.8%. This is quite high compared to the percentage of the vote received by the winning candidate in both contested partisan (56.7%) and nonpartisan (55.6%) races during this time. Second, and relatedly, very few incumbents lose in retention races. While 25 of 65 (38.5%) incumbents were defeated in contested partisan races and 7 of 74 (9.5%) incumbents were defeated in contested nonpartisan races during this time, only 3 of 177 (1.7%) supreme court justices were defeated in their bids for retention from 1990-2000. Taken together, it is clear that retention elections are significantly different from contested partisan and nonpartisan elections, and hence they are excluded from this study.

There are twenty-two states⁴ that elect their justices on partisan and nonpartisan ballots, and I examine all of them here with two exceptions. North Dakota, while electing justices on a nonpartisan ballot, does not require candidates to file campaign expenditure reports.⁵ New Mexico is omitted because of data availability issues. In New Mexico, campaign finance records are (or at least they were) destroyed five years after the election occurs. This eliminates all records, except for the 1998 and 2000 elections. When I attempted to obtain the records from the 1998 election, I was told they could not be located. After successive attempts to obtain this data failed, I decided to omit New Mexico from the analysis. Fortunately, New Mexico had only one contested election in 1998 and none in 2000. Consequently, its omission should not cause any problems for this analysis.

The Increasing Costs of State Supreme Court Elections

As mentioned above, there has been much discussion of the increasing costs of races for the state high court bench. But, does the evidence support such a claim? In this section, I describe the amounts of spending in state supreme court elections from 1990-2000.

In Table 1, we can see the total amount of campaign spending in contested general elections for each year in the study.

(Table 1 About Here)

⁴ Texas has two state courts of last resort, one that deals exclusively with civil claims (Texas Supreme Court) and one that only hears criminal cases (Texas Court of Criminal Appeals). Both courts are included here.

⁵ Interestingly, North Dakota does require candidates to file reports detailing their list of contributors and the amount of each contribution.

Table 1 shows that state supreme court races have been getting more expensive over time. With the exceptions of 1996 and 2000, each successive election cycle was more expensive than the last election cycle. Further, we can also see that partisan elections are more expensive than nonpartisan elections. Indeed, it was not until 2000 that the amount of spending in nonpartisan elections reached the levels obtained by partisan elections in 1992.

In Table 1, the spending amounts were reported in actual dollars. However, it is possible that much of the increase in campaign spending is due to inflation. In Table 2, I report the total average spending by year in 1990 dollars.

(Table 2 About Here)

While the amounts of the increases are less, there is still a trend toward more expensive races for the state high court bench. The average spending for a state supreme court race was about \$600,000 in 2000, compared to just over \$364,000 in 1990. Once again, consistent with Table 1, partisan elections are more expensive, on average, than nonpartisan elections. Thus, even when measuring campaign spending in constant dollars, state supreme court elections are becoming more expensive.

Does it matter if the election is an incumbent-challenger contest or a race for an open seat? Table 3 provides the answer.

(Table 3 About Here)

Table 3 indicates that, in general, open seat races are more expensive than incumbent-challenger contests. In every year except 1996 and 2000, there was more campaign spending in open seat races. This is not too surprising since, given the nature of the incumbency advantage, the best chance for a candidate to ascend to the bench by

elective means is to run for an open seat rather than challenge an incumbent (e.g. Jacobson 1997). Thus, we would expect open seat races to be more competitive and thus involve higher levels of spending.

Finally, Table 4 breaks down the spending data by type of election and selection system.

(Table 4 About Here)

Table 4 indicates that, in partisan election states, open seat races are more expensive than incumbent-challenger contests. However, this is reversed in nonpartisan states, with incumbent-challenger races being more expensive than open seat races. This is further confirmation of the fact that amounts of campaign spending are at least somewhat contingent on the type of election.

Predicting Campaign Spending in State Supreme Court Elections

The patterns described in Tables 1 through 4 are interesting and they convey a great deal of information. We learned that state supreme court races became more expensive throughout the 1990's, and that the amounts of campaign spending in these election varied by type of election (partisan versus nonpartisan; incumbent-challenger versus open seat). In order to understand the determinants of campaign spending in races for the state high court bench more systematically, I specify a multivariate model consisting of variables we would expect to affect the amount of money spent for a seat on the state supreme court.

Dependent variable. The dependent variable in this analysis is the log of the total amount of money spent in the race by all candidates (*Log of Total Spending*).

Independent variables. Several independent variables are hypothesized to affect the total amount of money spent in elections. They can be grouped into three broad categories: characteristics of the seat, institutional characteristics of the court, and the electoral and state supreme court context.

Characteristics of the seat: Most fundamentally, whether or not the election is for an open seat should affect the amount of spending (*Open Seat*). Sorauf (1988) has found that, in state legislative races, open seat races are more expensive than incumbent-challenger contests. In Tables 2 through 4, we saw that under some conditions open seat races were more expensive, while under others, incumbent-challenger races involved more spending. Other things being equal, however, I hypothesize that open seat races will involve more spending, since both candidates need to spend money in order to become known to the electorate, while this is not the case in incumbent-challenger races (where only the challenger has this difficulty). Further, it may be easier for candidates for open seats to raise (and thus spend) money compared to the difficulties a challenger to an incumbent is likely to encounter (e.g. Jacobson 1980, 1985, 1997; Green and Krasno 1988).

Even in incumbent-challenger contests, there should be a difference between incumbents who have previously won election and those who are facing the voters for the first time. These incumbents do not have all of the benefits of incumbency (Jacobson 1997). Incumbents without electoral experience will need to spend more money than those candidates who have already been legitimized by the electorate. Thus, I expect that there will be more spending in races where the incumbent is facing the voters for the first time (*Appointed First*) than in other races.

Campaign spending should also be related to how close the race is expected to be. The closer the race is expected to be, the more money should be spent, other things being equal. Unfortunately, we do not have good measures of expectations of the closeness of the race. However, the actual margin of victory has been found to be a good surrogate for the expected margin of victory. That is, the closer the race is expected to be, the closer it actually is (Jacobson 1980, 1985; Gierzynski and Breaux 1991).⁶ Thus, I use the actual margin of victory and expect that the lower the margin of victory (*Margin of Victory*), the higher the amount of money that should be spent.

Partisan control of the court, as for other political offices, is something that is sought after by political parties. Large amounts of money have been spent trying to obtain and retain control of the court (Glaberson 2000a; Dickerson 2001a; Orndorff 2002; Phillips 2002). If partisan control of the court is at stake in the elections (*Control of Court*), then more money should be spent, other things being equal.

Finally, the amount of money spent on one supreme court race is at least partially dependent on how many other races are on the ballot. Money is a finite resource, and the more seats that are on the ballot (*Number of Seats*), the lower the amount of spending in any one race should be.

Institutional characteristics: A basic institutional difference among states that elect their judges is whether the election is partisan or nonpartisan. In Table 1, we saw that nonpartisan races, in general, involved less spending than partisan elections. This was not surprising and was likely due to the fact that in partisan races, the political parties that are endorsing the candidates are involved in the election. Further, it may be easier

⁶ Indeed, this is the reason given for estimating these kinds of models using 2SLS (see Jacobson 1980; Green and Krasno 1988).

for candidates affiliated with a political party to raise (and thus be able to spend) money because there is a preexisting group of contributors who support candidates of that particular party. Based on this, I expect that partisan races (*Partisan*) will involve more spending than nonpartisan races.

In some states, judges are elected in geographical districts, as opposed to statewide. By definition, these judges have a more geographically compact electoral constituency. This should decrease the cost of a campaign, other things being equal (Gierzynski 1998). Thus, I hypothesize that there will be less spending in elections that are held in districts (*District*) rather than statewide.

Given the differences expected between partisan and nonpartisan states, we would also expect these differences to hold in district elections as well as statewide elections. Thus, consistent with previous studies that have found different dynamics between partisan and nonpartisan district-based elections (Hall 2001a), I include an interactive term taking into account the partisan nature of the district election (*DistPart*). As with statewide elections, I expect that there will be more spending in partisan district elections than in their nonpartisan counterparts.

Another institutional difference among the states is whether the election is for a single-seat or whether candidates run in multi-member districts. Multi-member districts have been found to involve more campaign spending than their single-member counterparts. “In multimember districts candidates will likely be less well known and will be in more competition for voters’ attention than candidates in single-member districts. This means they need to spend more money” (Gierzynski 1998, 25). I expect

the same to hold true here: multi-member districts (*MultiMember*) should involve higher levels of spending than single-member districts.

Finally, the term of office for state supreme court office varies among the states. Terms of office range from 6 to 12 years. Seats on the bench in states that have longer terms of office are more valuable than seats in states that have shorter terms, because longer terms of office provide for more job security. Thus, since seats in states with longer terms of office should be more sought after, I expect that there will be more campaign spending when a longer term of office is at stake (*Term*).

Electoral and Supreme Court Context: The final set of independent variables involves the state and electoral context of the race. First, the size of the voting age population should affect the levels of campaign spending. Simply put, other things being equal, the higher the voting age population (*Voting Age Population*), the more money that should be spent, since there are more people to reach (Squire 1989; Gierzynski 1998; Partin 2002).

Second, the general competitiveness of state supreme court elections in the state should affect the amount of money spent in a particular election. If there was recently a close election for the state high court bench in a state, candidates may begin raising money earlier and they will therefore have more money to spend for their election. Thus, I expect that if there was a close race (decided by 55% of the vote or less) in the most recent state supreme court election (*Prior Close Race*), there will be more spending in the current race, other things being equal.

Finally, the composition of the docket may affect campaign spending. Some states deal primarily with criminal or governmental cases, while others have a large

proportion of their docket occupied by tort cases. The battle over tort reform has pitted trial lawyers against corporations and other business interests. What both sides have in common is their propensity to spend money to put candidates sympathetic to their point of view on the bench (e.g., Glaberson 2000a; Orndorff 2002; Phillips 2002). This can be seen by looking at the two Texas courts of last resort. The average amount of money spent in races for the Texas Supreme Court (which only handles civil cases) dwarf significantly the amount of money spent for seats in the Texas Court of Criminal Appeals (which has jurisdiction only over criminal cases). In incumbent-challenger races, on average, races for the Texas Supreme Court cost \$1,326,633, compared to the average spending of \$142,587 for elections to the Texas Court of Criminal Appeals. The same holds true for open seats: on average there was \$1,296,749 of spending in elections to the Texas Supreme Court, compared to \$134,412 for the Texas Court of Criminal Appeals. One possible reason for this spending disparity is the differential nature of the dockets (since salary, term of office, staff, and other institutional issues are the same). Thus, I expect that in states with larger proportions of tort cases on their docket, there will be more spending (*Tort Docket*) than in states where a proportionately smaller percentage of their docket is occupied by tort cases.

Finally, I include a dummy variable for the year of the election, minus one year, to control for any temporal effects (*1990, 1992, 1994, 1996, 1998*).

For convenience, Table 5 lists all of the variables included in the analysis, along with their exact measurement.

(Table 5 About Here)

Estimation Technique

Since the dependent variable is continuous, ordinary least squares regression (OLS) is appropriate. I use Huber/White/Sandwich robust standard errors, set to recognize the panel structure of the data.

While OLS is appropriate there is a potential selection bias since I only observe the dependent variable (log of total campaign expenditures) when the race is contested. Thus, uncontested races are omitted. To the extent that what makes races contested is nonrandom (a likely scenario, see Bonneau and Hall n.d.), the estimates I obtain may be biased. Thus, I need to take into account the nonrandom process of races being contested. This can be done by finding some variables that affect the probability of observation (contestation) but not the dependent variable of interest (log of total campaign spending). In other words, I need to construct a model that predicts whether a state supreme court race will be contested, and thus included in the dataset. The results from this model can then be used to obtain unbiased estimates of the model of total spending (Heckman 1979).

Fortunately, this has already been done. Bonneau and Hall (n.d.) examine the probability that an incumbent will be challenged in state supreme court races from 1988-1995. The probability of a race being contested was found to be related to the following factors: the incumbent being initially appointed, the ranney index, the number of lawyers in the state, the salary of the justice, the term of office, and whether the race was partisan, district, or partisan and district. Here, I use these variables found to predict contestation in the selection equation to determine whether race was contested. Then, I estimate the model of total campaign spending discussed above, with the selection bias corrected.

This procedure provides consistent, asymptotically efficient estimates for all the parameters in the model. The variables included in the selection model and their exact measurement are shown in Table 6.

(Table 6 About Here)

The Determinants of Campaign Spending

Table 7 displays the results for the model of campaign spending estimated using Heckman's two-step correction for selection bias. These results are essentially the same as the results obtained by OLS regression without the correction for selection bias (see Table A.1).

(Table 7 About Here)

Contrary to what was hypothesized, the total amount of campaign spending is not related to whether the election was for an open seat or was an incumbent-challenger contest. Thus, contrary to the findings in legislative elections, the type of election is not a significant predictor of campaign spending in state supreme court elections. Further, the type of incumbent also does not matter. Combined, these results suggest we need to look elsewhere to understand the determinants of campaign spending.

As expected, the closeness of the race affects spending. The lower the margin of victory for the winner, the more money that is spent. A decrease of 1% in the margin of victory leads to an increase of 0.02% in total spending. Thus, an election that involved total spending of \$100,000 with a 5% margin of victory would involve \$108,000 if the margin of victory was 1%. Somewhat surprisingly, campaign spending is not related to whether partisan control of the court is at stake. High levels of partisan competition and

spending for court seats are apparently independent of whether control of the court is up for grabs. However, as expected, the number of seats on the ballot is a significant predictor of spending. Other things being equal, the fewer the number of seats on the ballot, the more money that will be spent on a race. One fewer state supreme court election on the ballot leads to an increase in total spending of 0.27%. Using the example above, a race with 2 other seats on the ballot that involved total spending of \$100,000, would involve spending of \$127,000 if there was only one other seat on the ballot.

In terms of institutional arrangements, two variables are significant. First, less money is spent on races in partisan statewide races than in the base category, nonpartisan statewide races. This somewhat surprising given the results presented in Chapter 4 (partisan races were, on average, always more expensive than nonpartisan races), but that could have been due to other factors (such as the competitiveness of partisan races). Once other relevant variables have been controlled for, partisan statewide races, on average, are less expensive than their nonpartisan counterparts. Campaign spending is unrelated to whether the election occurred in a district (either partisan or nonpartisan) or was held in a multi-member district. Finally, as hypothesized, the longer the term of office, the more expensive the race. This is likely because the seat is more valuable, and there are fewer opportunities to attain the high court bench. Substantively, the size of this coefficient is large. Increasing the term of office by two years leads to an increase in spending of 0.56%. Other things being equal, if \$100,000 was spent on a race for a 6-year term, \$156,000 would be spent if an 8-year term of office was at stake, \$243,360 for a 10-year term, and \$379,642 for a 12-year term.

In terms of the electoral and supreme court context, both the size of the voting age population and whether there was a close race in the most recent state supreme court elections were insignificant. However, as expected, the percentage of the docket composed of tort cases was significant. The higher the percentage of the tort cases decided by the court, the more expensive the race was, other things being equal. Specifically, a 1% increase in the proportion of tort cases on the docket leads to a 0.05% increase in total spending. This suggests that candidates are more easily able to raise (and thus spend) money in states where there is a large percentage of tort cases decided, and that contributors are aware that it is important for them to have sympathetic members of the state high court bench ruling on cases that typically involve large sums of money.

Conclusion

This paper looked at the increasing amount of money spent in state supreme court elections. Not only are these races becoming more expensive, but the amount of money spent for these seats can also be understood in predictable ways. Other things being equal, a race for the state high court bench will be more expensive if it is closer, there are fewer seats on the ballot, it is nonpartisan and statewide, if there is a longer term of office at stake, and if the court decides a relatively higher number of tort cases. That is, the amount of campaign spending in a race is predicted by characteristics of the seat, institutional characteristics, and the electoral and supreme court context.

Of course, this analysis does not say anything about the consequences of this increased spending in terms of the administration of justice. Does campaign spending in state supreme court elections affect the behavior of judges once on the bench? This is a

question that needs to be addressed in future research. However, the results presented here do suggest that if people are concerned with the amount of money spent in state supreme court elections, there are some things that can be done to curb the amount of spending in these races (and thus help alleviate the appearance of impropriety), short of eradicating them altogether.

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Table 1: Total Average Spending by Year, Contested General Elections 1990-2000
(number of elections in parentheses)

Year	All Elections	Partisan Elections	Nonpartisan Elections
1990	\$364,348 (30)	\$404,937 (18)	\$303,464 (12)
1992	\$576,268 (34)	\$663,063 (18)	\$512,373 (16)
1994	\$748,398 (31)	\$1,108,665 (16)	\$364,113 (15)
1996	\$579,336 (34)	\$722,388 (16)	\$452,177 (18)
1998	\$860,990 (31)	\$1,147,952 (16)	\$554,898 (15)
2000	\$801,108 (42)	\$846,465 (19)	\$763,639 (23)

Table 2: Total Average Spending by Year in 1990 dollars, Contested General Elections 1990-2000 (number of elections in parentheses)

Year	All Elections	Partisan Elections	Nonpartisan Elections
1990	\$364,348 (30)	\$404,937 (18)	\$303,464 (12)
1992	\$525,809 (34)	\$571,631 (18)	\$474,259 (16)
1994	\$645,161 (31)	\$958,840 (16)	\$310,570 (15)
1996	\$472,792 (34)	\$589,570 (16)	\$368,989 (18)
1998	\$672,148 (31)	\$896,272 (16)	\$433,081 (15)
2000	\$599,008 (42)	\$632,022 (19)	\$571,736 (23)

Table 3: Average Spending for Each Type of Election by Year, Contested General Elections 1990-2000

Year	Incumbent-Challenger	Open Seat
1990	\$355,860	\$386,060
1992	\$528,843	\$698,141
1994	\$656,666	\$887,098
1996	\$598,442	\$470,242
1998	\$798,124	\$993,009
2000	\$854,055	\$705,803

Table 4: Average Spending for Each Type of Election by Method of Selection,
Contested General Elections 1990-2000

Type of Election	Incumbent-Challenger	Open Seat
Partisan	\$781,728	\$833,881
Nonpartisan	\$535,326	\$491,947

Table 5: Variable Descriptions for a Model of Campaign Spending in State Supreme Court Elections

Variable		Variable Description
Log of Total Spending	=	log of total campaign spending by all candidates in the race
<i>Characteristics of the Seat</i>		
Open Seat	=	1 if the race was for an open seat 0 otherwise
Appointed First	=	1 if the incumbent was originally appointed to the court 0 otherwise
Margin of Victory	=	margin of victory (%) for the winner
Control of Court	=	1 if partisan control of the court is at stake 0 otherwise
Number of Seats	=	number of state supreme court races on the ballot
<i>Institutional Characteristics</i>		
Partisan	=	1 if the election was a partisan election 0 otherwise
District	=	1 if the election was held in a district 0 otherwise
MultiMember	=	1 if the election was held in a multimember district 0 otherwise
Term	=	length (in years) of the term of office
<i>Electoral and Supreme Court Context</i>		
Voting Population	=	voting age population of the state/district (1000s)
Prior Close Race	=	1 if recent judicial election was decided by 55% of the vote or less 0 otherwise
Tort Docket	=	proportion of the docket (1995) involving tort cases
<i>Control Variables</i>		
1990, 1992, 1994, 1996, 1998	=	1 if election occurred in the designated year 0 otherwise

Table 6: Variable Descriptions for the Selection Model of Campaign Spending in State Supreme Court Elections

Variable		Variable Description
Contested	=	1 if the race was contested (and thus included in the dataset) 0 otherwise
<i>Independent Variables</i>		
Appointed First	=	1 if the incumbent was originally appointed to the court 0 otherwise
Ranney Index	=	Ranney index of state partisan competition, as calculated and reported by Holbrook and Van Dunk (1993)
Lawyers	=	number of lawyers in each state in 1990
Salary	=	supreme court justice salary in 1995
<i>Institutional Characteristics</i>		
Partisan	=	1 if the election was a partisan election 0 otherwise
District	=	1 if the election was held in a district 0 otherwise
DistPart	=	1 if the election was held in a partisan district 0 otherwise
Term	=	length (in years) of the term of office

Table 7: Predicting Campaign Spending

Variable	Coefficient	Robust Std. Error	z	P > z
Open Seat	0.118	0.125	0.944	0.345
Appointed	-0.050	0.187	-0.267	0.790
First				
Margin of Victory	-0.022	0.006	-3.653	0.000
Control of Court	0.166	0.145	1.146	0.252
Number of Seats	-0.265	0.103	-2.579	0.010
Partisan	-0.737	0.367	-2.006	0.045
District	-0.240	0.507	-0.474	0.636
DistPart	0.062	0.643	0.097	0.923
MultiMember	-0.267	0.350	-0.762	0.446
Term	0.283	0.075	3.748	0.000
Voting Age Population	0.000	0.000	0.913	0.361
Prior Close Race	0.217	0.171	1.266	0.205
Tort Docket	0.052	0.006	9.347	0.000
1990	-0.727	0.167	-4.360	0.000
1992	-0.386	0.308	-1.255	0.209
1994	-0.306	0.284	-1.075	0.283
1996	-0.442	0.121	-3.666	0.000
1998	0.036	0.155	0.232	0.816
Constant	11.602	0.998	11.620	0.000

Dependent variable: log of total spending in the election

Mean of dependent variable: 12.825

Number of observations = 467
 Censored observations = 265
 Uncensored observations = 202
 Log likelihood = -470.357
 χ^2 (8) = 28.40
 Prob > χ^2 = 0.000

Table A.1: OLS results for Table 7

Variable	Coefficient	Robust Std. Error	z	P > z
Open Seat	0.119	0.172	0.693	0.497
Appointed	-0.108	0.177	-0.611	0.548
First				
Margin of Victory	-0.026	0.003	-8.599	0.000
Control of Court	0.243	0.171	1.419	0.172
Number of Seats	-0.225	0.079	-2.860	0.010
Partisan	-0.030	0.281	-0.107	0.916
District	-0.047	0.278	-0.168	0.868
DistPart	-0.062	0.366	-0.169	0.867
MultiMember	-0.071	0.359	-0.198	0.845
Term	0.201	0.073	2.768	0.012
Voting Age	0.000	0.000	0.969	0.344
Population				
Prior Close	0.215	0.124	1.726	0.101
Race				
Tort Docket	0.055	0.005	11.875	0.000
1990	-0.746	0.219	-3.407	0.003
1992	-0.454	0.256	-1.772	0.092
1994	-0.206	0.223	-0.926	0.366
1996	-0.465	0.143	-3.242	0.004
1998	-0.032	0.135	-0.236	0.816
Constant	10.989	0.698	15.741	0.000

Dependent variable: log of total spending in the election

Mean of dependent variable: 12.825

N = 202

F (18, 19) = 180.35

Prob > F = 0.000

 $R^2 = 0.6078$

Root MSE = 0.7921