

Political Climate Change: How Contribution Limits and Campaign Finance Regulations are Lengthening Campaigns for President

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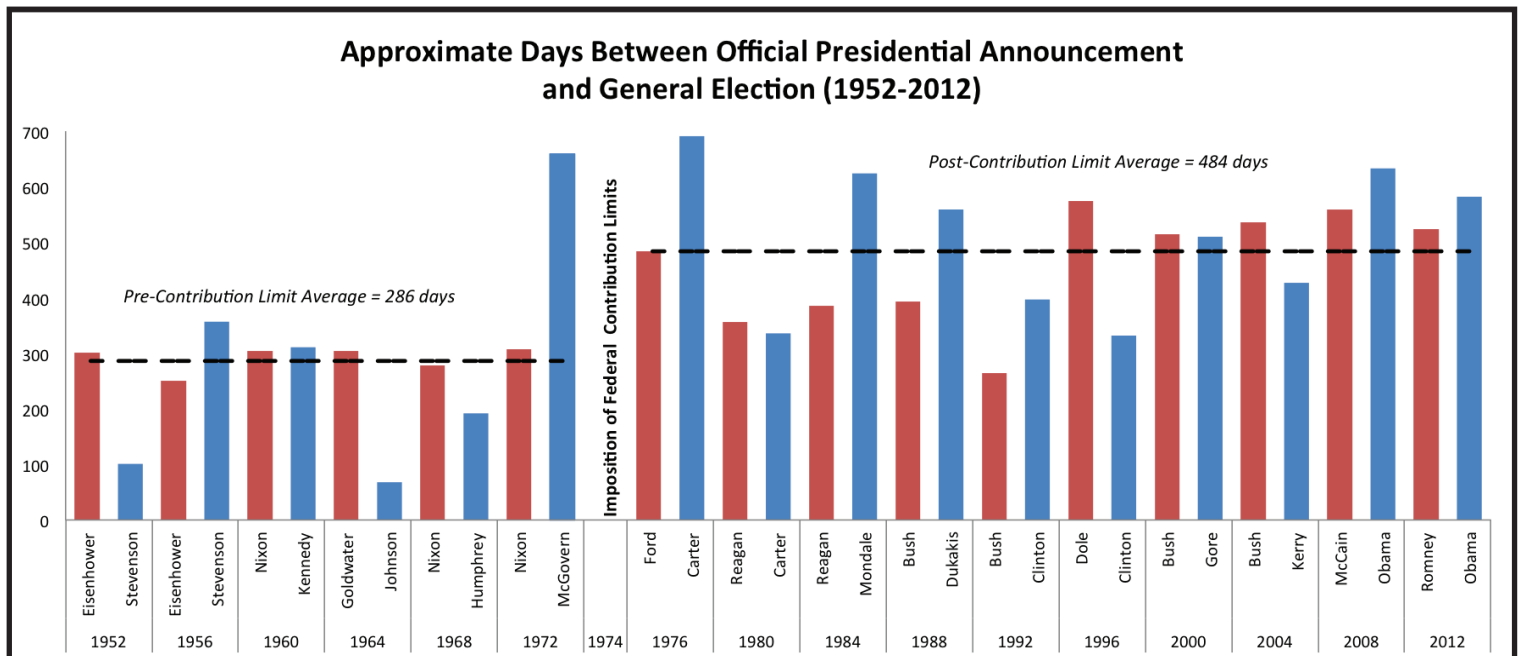
Introduction

Why are campaigns so long these days? Why are so many candidates declaring their candidacies or announcing that they will “test the waters” for a potential presidential campaign this month?

On March 23, 596 days before the 2016 election, Texas Senator Ted Cruz declared his candidacy for president.¹ Following Cruz’s announcement, on April 7, over 580 days before the 2016 election, Kentucky Senator Rand Paul announced his intention to run for president.² Five days later, former U.S. Secretary of State Hillary Clinton announced her campaign for president on April 12³, 576 days before the 2016 general election, and Florida Senator Marco Rubio threw his hat into the ring the next day.⁴

It often feels like the campaign season starts earlier each cycle, but does it really? The Institute for Free Speech looked at the major party nominees for president from 1952 to 2012 to shed light on this question. The following chart details the number of days between the eventual nominee’s official announcement of his candidacy for president and the general election date for that campaign.

The Data⁵



1 Lisa Mascaro and David Lauter, “Texas Republican Sen. Ted Cruz is running for president,” *The Los Angeles Times*. Retrieved on April 14, 2015. Available at: <http://www.latimes.com/nation/politics/politicsnow/la-na-pn-ted-cruz-presidential-bid-20150322-story.html> (March 22, 2015).

2 Ashley Killough, “Rand Paul: ‘I’m putting myself forward as a candidate for president,’” *CNN.com*. Retrieved on April 14, 2015. Available at: <http://www.cnn.com/2015/04/07/politics/rand-paul-president-2016/> (April 7, 2015).

3 Dan Merica, “Hillary Clinton launches second presidential bid,” *CNN.com*. Retrieved on April 14, 2015. Available at: <http://www.cnn.com/2015/04/12/politics/hillary-clinton-president-2016-election/> (April 12, 2015).

4 “Rubio announces candidacy for 2016,” *Associated Press*. Retrieved on April 14, 2015. Available at: <http://nypost.com/2015/04/13/rubio-announces-candidacy-for-2016/> (April 13, 2015).

5 Graph data available upon request. Please note: Due to the difficulties in obtaining formal presidential declarations before the creation of the Federal Election Commission in 1975, announcement dates are primarily sourced to news reports or the candidate’s official declaration speech.

Surprisingly, the last 40 years have not seen as large an increase in the period of official campaigning as one might have expected. If, for instance, Senator Paul were to become the Republican nominee, his declaration would be just the sixth earliest presidential announcement, just five days earlier than the beginning of Bob Dole's 1996 campaign and more than three months later than Jimmy Carter's official announcement back in December of 1974.

There has, however, been a fairly sharp uptick in the length of official campaigns since the 1950s and 1960s. The average number of days between official announcement and the general election averaged just 286 days (roughly nine-and-a-half months) in those decades compared with an average of 484 days (more than sixteen months) from 1976 to 2012.

The reasons for the increase vary widely – the rise of television as a campaign medium, changes to the primary system that gave more of a direct voice to party voters, and a decrease in importance of party leaders in making unofficial decisions, to name just a few. But the sharp distinction that began in the mid-1970s suggests that an overlooked factor with regard to the lengthening of political campaigns is the passage of the Federal Election Campaign Act (FECA) in 1972 and the effect of its many provisions – most notably the imposition of campaign contribution limits through amendments to the Act in 1974.

The Role of Campaign Finance Regulations in Determining When Candidates Declare

When government caps the amount that candidates can receive from each contributor, candidates respond by increasing their fundraising efforts so as to offset the financial loss and remain financially competitive. Rather than waiting until an election nears and the voters' interests are clear, candidates must decide whether or not to run for office far in advance of an election in order to have enough time to fundraise effectively. This is particularly harmful to challengers and upstart candidates, whose fundraising efforts are crucial to demonstrating to potential supporters that they are viable, electable figures. Fundraising can be proof of a candidate's ability to spur supporters into action or simply of their capacity to hire a professional campaign staff and book the necessary airtime to compete with frontrunners. This was a key element of President Obama's 2008 campaign strategy (he declared 633 days before the election). In the face of low contribution limits, many candidates are forced to hit the campaign trail early in order to maximize their fundraising ability and to publicly broadcast their fundraising prowess.

This effect is further exacerbated by regulations imposed by the Federal Election Commission necessary to make contribution limits enforceable. Prior to 1972, candidates *never* needed to officially declare as a candidate for president – President Lyndon Johnson, for instance, expressed doubts about running for a second term in 1964 in August of that year, weeks before accepting the nomination at the Democratic National Convention. Because of filing requirements like declarations of candidacy and fundraising reports instituted in the years since, such a non-campaign would be impossible.

1968 as a Case Study

To more clearly highlight the importance contribution limits play in changing the timing and viability of campaigns, Eugene McCarthy's famous 1968 candidacy is instructive. The anti-war Senator and presidential candidate, who forced incumbent President Lyndon Johnson from the 1968 Democratic primary, would almost certainly not have been able to mount a competitive campaign under today's restrictive laws. As syndicated columnist Richard Cohen has noted, “[h]istory was changed by the sort of political donations that are now derided.”⁶



Eugene McCarthy speaks at a campaign event.

⁶ Richard Cohen, “How political donations changed history,” *The Washington Post*. Retrieved on April 14, 2015. Available at: http://www.washingtonpost.com/opinions/how-political-donations-changed-history/2012/01/16/gIQA6oH63P_story.html (January 16, 2012).

McCarthy did not declare his candidacy until November 30, 1967 and relied on large contributions totaling over \$10 million in today's dollars from a handful of wealthy supporters to quickly assemble a competitive campaign in New Hampshire. Thanks to that support, McCarthy was able to use television to capitalize on growing anti-war and anti-Johnson sentiments and performed so strongly in the March 12, 1968 New Hampshire Democratic primary that Johnson withdrew from the race.

The organizer of McCarthy's New Hampshire campaign later recalled that a single "financial angel" saved their media effort at a critical time.⁷ McCarthy himself later wrote, "[T]here is clear historical evidence that large contributors have been highly important in supporting controversial and maverick political movements and in challenging established ideas, practices, and institutions."⁸ Indeed, as a result of his 1968 campaign experience, McCarthy so opposed contribution limits that he joined as a plaintiff in the omnibus *Buckley v. Valeo* challenge to campaign finance regulations enacted by FECA. Among the cornerstones of First Amendment law, the Supreme Court's decision in *Buckley* is notable for its determined policy in favor of shielding issue speech from the force of federal regulation.⁹ Had McCarthy been forced to fund his campaign through small contributions, it's highly unlikely that a competitive campaign could have been organized between the onset of frustrations with Johnson's presidency and war fatigue in late 1967 and the New Hampshire primary in early 1968. Anti-war voters would've been left without a voice, and President Johnson may well have ended up the Democratic nominee.

Why Will So Many Candidates Declare in April 2015?

Even with longer campaigns, campaign finance rules provide a huge incentive for candidates to declare in April. That's because, in the year before an election, presidential candidates file on a quarterly basis. Candidates who fail to put up robust fundraising totals in a quarter, especially the first quarter of their campaign, can develop a public image of failing to catch on with voters and funders, a potential death knell for a campaign. Therefore, most candidates will either declare their candidacies or say they are setting up a "testing the waters" account early in a quarter so they will have close to three full months to rack up impressive fundraising totals.

There is similar pressure on congressional candidates to declare early in a quarter, so many of them also declare in July and October in the year before the election. For states with late primaries, January of an election year also often brings forth a wave of new candidates.

Conclusion

Campaigns today are not significantly longer than those that occurred ten, twenty, or even thirty years ago, but they are considerably longer than campaigns of the 1950s and 1960s. The length of campaigns expanded significantly beginning in the early 1970s, when new regulations went into effect for both campaign finance and primary processes. While reforms to the primary system generally increased the ability of party members to select candidates, efforts to regulate campaign finance limited and restricted the ability of citizens to influence the selection of candidates.

In particular, campaign contribution limits mean that potential candidates can no longer afford to wait for the public to say what it wants before deciding whether to run, as McCarthy did in 1968. Instead, they must plan their campaigns far in advance, with a level of forethought and organization that favors career politicians over emerging voices. The importance of fundraising – and of demonstrating one's viability as a candidate through fundraising – combined with low contribution limits pushes candidates to declare earlier than they otherwise would.

7 John Samples, "A Free Speech Kind of Thing," *The American Spectator*. Retrieved on April 14, 2015. Available at: <http://spectator.org/articles/47643/free-speech-kind-thing> (December 14, 2005).

8 Eugene McCarthy, *No-Fault Politics*. (1998), p. 20. Quote retrieved via RedState. Retrieved on April 14, 2015. Available at: <http://archive.redstate.com/story/2005/12/11/114842/04> (December 11, 2005).

9 *Buckley v. Valeo*, 424 U.S. 1 (1976).