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**MONEY, JUDGES, AND VOTES: THE EFFECTS OF CAMPAIGN SPENDING IN
STATE SUPREME COURT ELECTIONS**

By

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ABSTRACT

MONEY, JUDGES, AND VOTES: THE EFFECTS OF CAMPAIGN SPENDING IN STATE SUPREME COURT ELECTIONS

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This dissertation is about campaign spending in state supreme court elections. Specifically, I examine whether campaign spending by candidates for the state high court bench promotes or inhibits electoral competition. Looking at all contested state supreme court elections from 1990-2000, I find that, in some circumstances, campaign spending promotes competition, while in other cases it retards it. The effects of campaign spending on the vote total depend upon characteristics of the candidates, the state electoral context, and institutional arrangements. The results both extend current findings about the role of campaign spending in congressional and state legislative elections, and speak to efforts currently underway in state legislatures to reform or eradicate judicial elections.

Dedicated to my parents,
Edmund and Jacklyn Bonneau

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CHAPTER 1

INTRODUCTION: ELECTING JUDGES

The 2001 race for the Louisiana Supreme Court was one of the most contentious (and expensive) in the history of the state (Swerczek 2001). Democrat Court of Appeals Judge John Weimer faced off against fellow Democrat (and district court judge) Mary Hotard Becnel. The winner of the election would sit on the court for the final year of retired Justice Harry Lemmon's term before running for reelection in 2002. Court observers saw this election as having the potential to affect the balance of the court between the pro-trial lawyer forces (who supported Becnel) and the pro-business troops (who supported Weimer). While the race was conducted with civility, and turnout was light, both candidates campaigned vigorously for the seat (Swerczek 2001). Despite spending only \$272,000 (compared with Becnel's \$828,000), Weimer won the race with 51% of the vote. What factors contributed to Weimer's victory? Are these factors consistent across all elections for open seats? In this election for an open seat, the candidate who spent the most money did not win the election. Does this mean that spending is unrelated to electoral success in open seat elections?

The 2000 elections for the Alabama Supreme Court were some of the most expensive (and bitter) in state supreme court election history (Goldberg, Holman, and Sanchez 2002; Orndorff 2002). With five seats up for election, both sides of the tort reform battle (pro-business interests and trial lawyers) saw this as a perfect opportunity to solidify support for their cause on the court. Republicans won both open seats (Roy Moore defeated Sharon Yates and Robert Harwood defeated Joel Laird), and the one

Republican incumbent (Champ Lyons) was reelected easily. Incumbent Ralph Cook, a Democrat, was ousted by Republican Lyn Stuart, a Circuit Court judge. Stuart spent \$1,254,450 on her campaign, outspending Cook, who only spent \$437,482. Incumbent John Henry England (Democrat) did not fare much better. He lost his reelection bid to Thomas Woodall, a Republican Circuit Court Judge. England spent \$500,681 on his reelection bid, an amount dwarfed by the \$1,107,839 spent by Woodall. Did the amount of money spent by Stuart and Woodall have anything to do with the defeat of Justices Cook and England? Did Stuart and Woodall spend enough money to overcome the advantages of incumbency? Or was the election decided along ideological and partisan lines, with the Republican candidates winning in a decidedly Republican state?

In the 2000 Ohio state supreme court elections, Justice Alice Robie Resnick, a Democrat, was targeted for defeat by pro-business interests. She was challenged by Court of Appeals Judge Terrence O'Donnell. Despite the Chamber of Commerce (and other similar groups) spending over \$5 million on the campaign, Resnick won with 56% of the vote (Brown 2000). At the same time, Justice Deborah Cook, a Republican, won a less contentious race over Municipal Court Judge Timothy Black. Taken together, do these results mean that campaign spending does not matter, at least where incumbents are concerned? Does the incumbency advantage trump spending in nonpartisan states? Are there differences between the effects of spending in partisan and nonpartisan states? How else can these results be explained?

This dissertation examines the relationship between electoral competition and the amount of money spent by candidates in state supreme court elections. The election of judges is one of the most interesting, and distinctive, facts of American political life.

Voters in forty-three states elect state court judges at some level (Carp and Stidham 2001), and thirty-eight states have some form of election for their justices on the state supreme court. Despite the fact that a majority of state court judges are elected, we know little about the factors that determine the outcomes of these elections. This dissertation represents one of the first comprehensive, systematic forays into this topic.

The Brief History of Electing Judges

The election of judges is an almost uniquely American phenomenon (Schotland 1985). The early American states selected judges much like their former British rulers: they were appointed for life terms (although there were often provisions for impeachment).¹ Some states had the judges appointed by the legislatures, while others provided for gubernatorial appointment. In short, the selection of state court judges paralleled the selection of federal judges (Sheldon and Maule 1997).

Originally, judges were selected in this way because the judiciary was considered a weak institution. Consequently, courts were extremely deferential to legislatures, since they were heavily dependent on them (Sheldon and Maule 1997). Interestingly, now selection schemes like this are touted as promoting the independence of judges from both the electorate and other political actors. Judges should be free to interpret the law and make judicial decisions independent of as many constraints and political factors as possible. Being appointed by the governor or legislature for a life-term frees judges from

¹ Of the twelve states that currently appoint justices to the high court bench, only one (Hawaii) is not one of the original states of the union, or is a state that was once part of one of the original states (Maine was initially part of Massachusetts, and Vermont was originally part of New York. Both Maine and Vermont have their governor appoint their state supreme court justices.) Further, only two of the original thirteen states have true elections for the state supreme court (Georgia and North Carolina).

paying attention to factors irrelevant to their jobs as judges.² By not conditioning their continued employment on things like elections, judges will be free to interpret the law and make rulings based on legal criteria (such as the facts of the case, the law, and precedent) and not on how they think the public will react.

It is important to note that proponents of appointed schemes are not really arguing for complete “independence” from all political actors. As was discussed above, judges who are appointed (and need to be reappointed) can hardly be said to be independent from the appointing authority (legislature, governor, or both). Thus, the “independence” argument is really an argument for independence *from the electorate*. Certainly, with the rare exception of those states that provide for life-tenure, judges who are dependent upon either the governor or the legislature for reappointment are not completely “independent.” Presumably, an appointed judge who makes decisions that are contrary to the policy preferences of the actor (or actors) who has (have) the power to reappoint her could be subject to the same sanction as the elected judge who makes decisions contrary to the preferences of the electorate: loss of her job. In fact, this dependence on the legislature or governor (the *lack* of independence of judges) was one of the reasons given to move *away* from the appointment of judges to their election (Sheldon and Maule 1997).

The appointment of judges was common until about 1830. This coincided with the demise of the Federalists, and the rise of Jacksonian democracy. “Jacksonian democracy meant that the average citizen could not only use the extended franchise to

² Interestingly, many appointive schemes in the states do not have life-tenure for their judges. Indeed, only Rhode Island has such a system, while three other states (Massachusetts, New Hampshire, and New Jersey) have terms of office for their judges that expire when the judges reach age 70. In some other states (such as Delaware, Hawaii, Massachusetts, and Vermont), the governor must limit her selection to one of the candidates recommended by a judicial nominating commission (Hall and Bonneau 2000).

pick his leaders, but he could share responsibility for governing” (Sheldon and Maule 1997, 3). In terms of courts, this philosophy led to elected judges and shorter terms of office. There were three primary reasons why judicial elections gained popularity. First, there was the issue of judicial review. Since judges were invalidating laws enacted by the legislature, it was argued that they should be chosen by the electorate, just like the legislature.³ Second, the legal profession hailed the movement toward an elected judiciary, seeing it as “an opportunity to provide the judiciary with its own separate constituency, thus ensuring it some measure of independence from the legislature” (Sheldon and Maule 1997, 4). As an independent branch of government, it was argued that judges should not be agents of the legislature. Third, and finally, popular elections allowed for the removal of incompetent and arrogant judges. While judges could be impeached under appointive schemes, impeachment was thought of as too drastic a punishment, and thus was used sparingly (Friedman 1985, 129-130).

The primary motivation for electing judges was that judges are political officials, and as political officials they should derive their political power from the people, and not from a co-equal branch of government. Indeed, the process of electing judges is the only process that can make them independent from the legislature and governor. Further, competitive elections provide for electoral accountability: judges, like legislators, are accountable to the electorate for their decisions and actions. Judges are thus less likely to be out-of-step with the political climate of their state. After all, supporters of elections would say, if a state provides for capital punishment, why should a judge who refuses to uphold the death penalty be allowed to serve? This judge is refusing to apply the law as

³ It is interesting to note that even states that did not change the method by which they chose judges “added restraint by shortening the terms for judges” (Sheldon and Maule 1997, 4), which also serves to reduce judicial independence, albeit in a different way.

it is written, and is substituting her own personal policy preferences for the law. While it would be extremely difficult to remove this judge in an appointed state, the voters can remove this renegade judge in her next election.

Critics of judicial elections make two central arguments. First, they claim that judges should not be held accountable to the electorate. Judging is not an intrinsically political act like legislating, and judges should not be penalized by the electorate for their rulings (e.g., Marks and Hoke 2001; Mikva and Sessions 2001; *Pittsburgh Post-Gazette* 2001a, 2001c; Wenzel 2001). Second, and relatedly, opponents of judicial elections argue that even if it were conceded that electing judges is not, de facto, inappropriate, in their current form judicial elections are ineffective mechanisms for holding judges accountable. Specifically,

Reformers argue that partisan elections, characterized by lackluster campaigns devoid of issue content, are disconnected from substantive evaluations of candidates or other meaningful considerations relevant to the judiciary, which renders them ineffective as a means of accountability (Hall 2001a, 316)

Regardless of whether judges should, or should not, be independent from the electorate, the debate is irrelevant if elections fail to provide electoral competition, a necessary component electoral accountability.

In response to criticisms like these, judicial elections have undergone two significant evolutions since the 1830's. First, while judicial elections were initially partisan, there soon became allegations of corruption and control of the bench by political machines. Around 1900, Progressives began pushing for judicial elections to be nonpartisan. In these types of elections, candidates would run in a competitive election, but without party labels. Supporters of nonpartisan elections argue that they provide for

electoral accountability, while not subjecting judges to the vagaries of partisan tides. Thus, voters are able to remove a judge from office, but a judge will not be removed simply by belonging to the wrong political party. By removing partisan considerations, the hope was that more qualified jurists would be elected to the bench.⁴

However, removing partisan labels had the effect, perhaps unintended, of making these races less competitive (see Chapters 4 and 7). By taking a crucial piece of information away from the voters, states electing their judges on nonpartisan ballots served to strengthen the incumbency advantage. Thus, not only are judges independent from the legislature (since they are elected), but they are also less accountable to the electorate (because the elections are less competitive).

A second reform, first proposed around 1913, is commonly referred to as “merit selection.” While there are several variations of this selection scheme, in its most common form a justice would be initially appointed to the bench by the governor (from a list of names—usually three—submitted by a nominating commission) and this justice would serve for a period of time (usually one or two years) before facing the voters in a nonpartisan retention election. Voters would then be asked, “Should Judge X be retained?” If the judge received more “yes” votes than “no,” then she would retain her seat and serve for a fixed period of time (6 to 12 years, depending on the state) before facing the voters again. If the justice was defeated, then the governor would fill the

⁴ Interestingly, the Progressives appear to be wrong on both counts. Glick and Emmert (1987) and Bonneau (2001a) find no difference in the quality of judges between selection systems, and Hall (2001a) finds that nonpartisan elections are driven by political factors, just as partisan elections. However, Schaffner, Streb, and Wright (2001) find that, in local and state legislative elections, voters in nonpartisan elections rely less on partisan cues and more on incumbency.

vacancy just as she did originally. Like nonpartisan elections, this was designed to ensure a more qualified bench and remove political considerations from selecting judges.⁵

Merit selection is by far the system that gives the judges maximum independence from both the legislature and the electorate. Once judges are appointed, they are not dependent on the legislature (or governor) for reappointment. Further, since they run unopposed for retention, they are also, according to all measurable indicators, independent from the electorate. Indeed, these candidates very rarely lose. While presuming to combine the “best” features of appointed (independence) and elected (accountability) schemes, merit selection has the effect of making judges independent from both other political actors (since they are not dependent on them for their reappointment) and the electorate (since they very rarely lose their bids for retention).

Thus, the means by which judges are selected has moved from being independent from the electorate but highly dependent on the legislature and governor (appointed), to being accountable to the electorate and independent from the legislature and governor (elections), to being independent from both the legislature and governor and the electorate (merit).

In addition to the method by which they select their state supreme court justices, states also vary on other institutional factors, such as term of office, electoral constituency, and structure of the seat. In Table 1.1, the states that elect their high court justices are displayed, along with their current institutional arrangements.

⁵ The evidence on the success of this plan is similar to the success of nonpartisan elections: there is no evidence of a more qualified bench (Glick and Emmert 1987; Bonneau 2001a), and these races are not immune from political considerations (Hall 2001a).

Table 1.1: Institutional Arrangements for States That Elect Their Justices, 2000

State	Selection System	Term of Office	Electoral Constituency	Seat Structure
Alabama	Partisan	6	Statewide	Single-Member
Alaska	Retention	10	Statewide	Single-Member
Arizona	Retention	6	Statewide	Single-Member
Arkansas	Partisan	8	Statewide	Single-Member
California	Retention	12	Statewide	Single-Member
Colorado	Retention	10	Statewide	Single-Member
Florida	Retention	6	Statewide	Single-Member
Georgia	Nonpartisan	6	Statewide	Single-Member
Idaho	Nonpartisan	6	Statewide	Single-Member
Illinois	Partisan/Retention*	10	District	Single-Member
Indiana	Retention	10	Statewide	Single-Member
Iowa	Retention	8	Statewide	Single-Member
Kansas	Retention	6	Statewide	Single-Member
Kentucky	Nonpartisan	8	District	Single-Member
Louisiana	Partisan	10	District	Single-Member
Maryland	Retention	10	District	Single-Member
Michigan	Nonpartisan**	8	Statewide	Multimember
Minnesota	Nonpartisan	6	Statewide	Single-Member
Mississippi	Nonpartisan	8	District	Single-Member
Missouri	Retention	12	Statewide	Single-Member
Montana	Nonpartisan/Retention***	8	Statewide	Single-Member
Nebraska	Retention	6	District	Single-Member
Nevada	Nonpartisan	6	Statewide	Single-Member
New Mexico	Partisan/Retention***	8	Statewide	Single-Member
N. Carolina	Partisan	8	Statewide	Single-Member
N. Dakota	Nonpartisan	10	Statewide	Single-Member
Ohio	Nonpartisan**	6	Statewide	Single-Member
Oklahoma	Retention	6	Statewide	Single-Member
Oregon	Nonpartisan	6	Statewide	Single-Member
Pennsylvania	Partisan/Retention*	10	Statewide	Multimember
S. Dakota	Retention	8	Statewide	Single-Member
Tennessee	Retention	8	Statewide	Single-Member
Texas	Partisan	6	Statewide	Single-Member
Utah	Retention	10	Statewide	Single-Member
Washington	Nonpartisan	6	Statewide	Single-Member
W. Virginia	Partisan	12	Statewide	Multimember
Wisconsin	Nonpartisan	10	Statewide	Single-Member
Wyoming	Retention	8	Statewide	Single-Member

* = originally elected in partisan elections; retention elections after initial election

** = candidates nominated in partisan primaries/conventions

*** = retention election only if unopposed

Regardless of form, elections to the state high court bench have been around since 1830, with no sign of disappearing. Given their importance, and the constant attempts to reform (or eradicate) them, it is more than a little surprising that we know little about these elections.

State Supreme Court Elections and Democratic Theory

Our lack of knowledge about judicial elections is troublesome, especially since elections are one of the cornerstones of democracy. American democracy is founded (at least in part) on the notion that officials are to be elected by their constituents (Pomper 1968). In states that have elections for state supreme court seats, justices are to be selected by the voters of the state (or district) in which they reside, just as legislators.

One of the most important facts about elections is that they provide for competition. That is, they provide the opportunity for voters to choose some candidates over others. This is important because, “[T]he degree to which voters are not offered choices on the ballot raises significant questions about the health of a democracy” (Squire 2000, 131). Competition can be conceptualized in two different ways.

First, a necessary condition of competition is simply the presence of alternatives. That is, there must be more than one candidate from which to choose. Thus, under this conceptualization, any election for a seat on the state high court bench is considered “competitive” if more than one candidate seeks the seat. This definition has the advantage of defining a race as competitive before the votes are tallied. Additionally, this recognizes the fact that “[E]ven facing a weak challenger can cause a representative some concern” (Squire 1989a, 283). However, the simplistic nature of this conceptualization is

also its biggest drawback; it confuses “competitive” with “contested.” Applying this logic to congressional elections, the 2000 U.S. Senate race in Massachusetts between Ted Kennedy and Jack Robinson was “competitive,” even though Kennedy won with 73% of the vote. A competitive race must be contested; but a contested race does not have to be competitive. The Kennedy race just mentioned was certainly contested, but could hardly be said to be competitive.

An alternative conceptualization of a “competitive” race focuses on the percentage of the vote obtained by both candidates. Under this definition, races can only be said to be “competitive” after the election is complete. The lower the margin of victory for the winner, the more competitive the race. Using this definition, the Kennedy-Robinson race is viewed as less competitive than the 2000 U.S. Senate race in Michigan between Debbie Stabenow and Spencer Abraham (in which Stabenow won with 49% of the vote), although it is more competitive than if Kennedy were not challenged at all. Instead of conceptualizing “competition” as dichotomous (present or not), this definition views competition as a continuum, with races being more or less competitive, depending on the level of support provided to each candidate by the voters.

In this dissertation, I focus on the second definition of competition. The reasons for my choice are simple: I am interested in what factors promote (or inhibit) competitive elections. While one can do this using a dichotomous measure (Bonneau and Hall 2001), doing so requires me to consider the Kennedy and Stabenow races as equivalent—they are both “competitive.” However, I am interested in what makes races more or less competitive. That is, why did Kennedy win so easily, while Stabenow was in a dogfight? More specifically, I focus on the effects of campaign spending on

competitiveness. Understanding the electoral process is centered (to some degree) around this question: what factors explain competition, and can competition be promoted (or inhibited) by changing certain conditions? This dissertation focuses on competition in elections to the state high court bench.

It is important to study and understand electoral competition because its presence (or absence) serves as a constraint (or lack thereof) on electoral actors. From the congressional literature, we have learned that “[E]ven ‘safe’ representatives who face challengers live with some fear that they may be defeated, and this wariness may constrain their actions” (Squire 1989a, 282). For example, a congressional incumbent who is facing competition in her bid for reelection may feel compelled to support legislation she may otherwise oppose for fear of losing her seat. The more serious the competition, the more constraint she will feel.

The same holds true for state supreme court incumbents: The presence of competition may alter her behavior on the bench. In a series of studies, Brace and Hall found that justices alter their behavior in the presence of elections (Brace and Hall 1990, 1995, 1997; Hall 1987, 1992, 1995). “[A]ppointive selection procedures ... are associated with considerably less dissent [on state supreme courts]” (Brace and Hall 1990, 65; see also Hall 1992). The fact that they have to face the electorate and may be subject to electoral competition alters the behavior of state supreme court justices on the bench. More fundamentally than dissent rates, Hall (1995, 498) finds that, “The willingness of supreme court justices actually to condemn individual defendants to death may rest, at least to some extent, on general electoral conditions and the justices’ individual experiences with electoral politics.” Likewise, the frequency of facing the

voters affects behavior on the bench: “[T]he political result of shorter terms of office is a decidedly more conservative bench, at least on the issue of the death penalty” (Brace and Hall 1997, 1223; see also Brace and Hall 1995).

These examples point to the fundamental importance of studying electoral competition: competition is essential for elected officials to behave in a way congruent with the preferences of the electorate. The more competitive the election, the more congruent a justice’s behavior will be with the electorate. Elections provide the opportunity for the public to control the composition of the state supreme court bench (and thus, indirectly, the outcome of cases); competitive elections are the realization of this provision. This explains the findings by Hall (1995) that justices are more willing to uphold capital punishment sentences based on their proximity to reelection.

It is important to note that what has been found to affect the behavior of actors seeking election or reelection is solely due to the presence of competition. It has little to do with what the electorate knows, or does not know, about the candidates. A competitive election can be an effective mechanism by which to affect behavior even in the absence of knowledge by the voters. “[E]ven in situations of incomplete information, there are powerful equilibrating forces pushing public policy in the direction of the representation of public sentiment” (Ferejohn 1990, 5). All that is required is that the voters are minimally concerned about the acts of the political actors (Key 1961; Pomper 1968; Ferejohn 1990). Indeed, “[T]he voter need not know what is wise, but only what is personally satisfactory or obnoxious” (Pomper 1968, 39; see also Key 1961, 467). Thus, despite the fact that voters are often ignorant both of the issues and the candidates (Key 1961), competition is vital to efficacious elections, if for no other reason than because it

is by the electoral process that voters can retain or remove officials. Voters “can quickly and bloodlessly dismiss an offensive official and thereby end his power, prestige, and profit. No explanations need be given by the electorate, and no appeal can be taken from its decisions ...” (Pomper 1968, 254). For this to be true, there must be competition.

Clearly, electoral competition is vital for elections maintaining their legitimacy and fulfilling their *raison d’etre*: allowing voters to choose their elected officials and holding these officials accountable for their actions. While the necessity of competition is clear, it is less clear how competition can be promoted. By the same token, while we know much about the determinants of competition in congressional and state legislative elections, these processes remain unknown in state supreme court elections. In this dissertation, I focus on one key potential influence on competition in state supreme court elections: campaign spending. To the extent that state supreme court election competitiveness is affected by campaign spending, then the ability of the electorate to make meaningful choices is compromised.

This dissertation has very practical implications for the debate over campaign finance regulation currently raging in both state legislatures and the U.S. Congress. If campaign spending by incumbents is directly related to their percentage of the vote in a positive manner, then incumbent spending will serve to decrease competition, and add to the already large advantages enjoyed by incumbent (see Jacobson 1997, 19-34 for a summary of this literature). Similarly, if spending by challengers erodes the incumbent’s percentage of the vote (and thus boosts the electoral support of the challenger), then campaign spending would serve to promote competition. By limiting the amount of money raised (and thus spent), states will serve to further strengthen the electoral position

of incumbents. The same holds true for candidates for open seats: campaign spending may either promote or inhibit competition, and the states can structure these effects by the types of campaign finance laws adopted. Finally, it may be the case the campaign spending has no effect on competition, which means that promoters (and detractors) of competition in judicial elections will have to look elsewhere for ways to either promote or discourage competition. Also unknown is what effects, if any, institutional arrangements have in structuring these relationships: Does it matter if the election is partisan or nonpartisan? Occurs statewide or in a district? Occurs in a single-member district or a multi-member district? At any rate, understanding the effects of spending on electoral outcomes is necessary before measures intended to increase, or decrease, the competitiveness of elections can be seriously considered.

The Climate of State Supreme Court Elections

To say that state supreme court elections, and the funding thereof, is a popular political issue is an understatement. There has been an abundance of proposed legislation, press coverage, and rhetoric about judicial elections in recent years. In every state that elects judges to its high court bench, legislators, candidates, and the opinion pages of local newspapers have called for either radical reform of the electoral process or the eradication of judicial elections altogether.

In December of 2000, the Chief Justices of fifteen states, as well as others interested in the politics of judicial elections, gathered in Chicago at a special summit to discuss issues plaguing the conduct of judicial elections. This meeting, which culminated in a Call to Action, was primarily designed to address the “growing concerns about the

million dollar war chests, attack advertising and even outright distortion of an opponent's record that seems to have become more widespread ..." (Glaberson 2000b, 1).⁶ This summit comes on the heels of two *60 Minutes* stories (1987, 1998), a *Frontline* investigation (1999), and countless law review articles and other reports in the popular media, all of which assume a strong, direct link between campaign expenditures and election outcomes (American Bar Association 1998; Hansen 1998; Glaberson 2000a, 2000b).

Most recently, the Justice at Stake campaign released a report on the 2000 judicial elections. This report, which examines contributions and expenditures in all states that conducted state supreme court elections in 2000, concludes that

[T]he year 2000 signaled a dangerous turning point for America's courts, documenting the growing systematic, and unprecedented infusion of big money and special interest pressure into the election of Supreme Court justices across the country (Goldberg, Holman, and Sanchez 2002, 4).

The report links the increased campaign fundraising and expenditures to the compromising of the fair and impartial administration of justice. Indeed, it states that, "2002 could be a decisive year for the struggle to keep courts fair and impartial" (Goldberg, Holman, and Sanchez 2002, 4). The report further implores both politicians and voters to help stem back the tide of expensive and contentious campaigns for the state high court bench, else "the threat to fair and impartial justice will grow, perhaps rapidly" (Goldberg, Holman, and Sanchez 2002, 6).

It is not just judges and the media who are calling for the reform or elimination of judicial elections. Governors in states such as Michigan (Bell 2001; Dickerson 2001a) and Pennsylvania (*Pittsburgh Post-Gazette* 2001b) are proposing replacing elections for

⁶ The papers presented at this summit, as well as the Call to Action, were subsequently published in the June 2001 *Loyola of Los Angeles Law Review*.

the state high court with appointments by the governor. The state legislatures in Wisconsin and North Carolina are considering providing full public campaign financing for some candidates (Glaberson 2001). Further, some states have even changed the method by which they select supreme court justices, at least in part to insulate members of those courts from the electorate and the rigors of campaigning for office. Since the 1960's, sixteen states have changed their method of selecting supreme court justices (Hall 2001a). Moreover, some states have changed their selection system quite recently. In the mid-1990's, Mississippi changed from partisan elections to nonpartisan elections, and Tennessee moved from partisan elections to retention elections. Additionally, Arkansas moved from a partisan election scheme to nonpartisan elections, a change that takes effect in 2002.

Clearly, the issue of judicial elections (and the funding thereof) is one that is occupying increasing amounts of time on the public and legislative agenda. Underlying many of these claims is that the amount of campaign spending serves to decrease electoral competition. That is, opponents of judicial elections claim that elections are being won by the candidate who spends the most money, and the more money that is spent, the larger the electoral victory. It thus becomes even more important to systematically examine and understand the dynamics of these elections, especially since states are changing their methods of selection on the basis of untested, unverified claims.

Research Question

Former North Carolina Supreme Court Chief Justice Henry Frye recently said, ““Someone needs to do a careful analysis to find out exactly what things make a

difference in judicial elections”” (Berry 2001, 37). This dissertation is about electoral competition in state supreme court elections. I am interested in what factors promote or retard electoral competition for the state high court bench. Central to my analysis is the role of campaign spending in these elections. Specifically, I ask: Does campaign spending affect the percentage of the vote received by state supreme court candidates? In order to answer this question, I examine all contested elections for the state high court bench between 1990-2000.

This is an important question for the reasons detailed above: allegations abound about the negative effects of campaign spending on the electoral process. However, none of these claims have been tested in any systematic manner. It may in fact be the case that campaign spending decreases competition, and the more money spent by the winner of the election, the larger her percentage of the vote will be. Alternatively, it may be the case that campaign spending promotes competition. The more money that is spent, the higher voter awareness of the candidates and their respective positions will be, especially for candidates who are relatively unknown. This would serve to weaken the incumbency advantage (as well as other advantages such as name recognition), and lead to more competitive races. Further, these effects may vary depending on the type of candidate (incumbent or non-incumbent) as well as the institutional setting in which the election is occurring. Addressing competition in state supreme court elections is essential to a complete understanding of both the electoral and judicial process.

Plan of the Dissertation

In Chapter 2, I lay out a general argument about electoral competition and the influence of campaign spending in state supreme court elections. Why should we expect money to matter in these elections? What is it about campaign spending that should make it so relevant to electoral outcomes?

My research design, data, and method are discussed in Chapter 3. In addition to specifying my design, I also discuss the procurement of the data used in this project, as well as my methodology for assessing the effects of money on votes.

Chapter 4 describes the context of state supreme court elections in the time period studied here (1990-2000). Here, I look at patterns of competition and spending, and break them down by year, selection system, type of election, and state.

Chapter 5 examines the determinants of campaign spending in state supreme court elections. What factors promote campaign spending, and which factors retard it? Are these factors the same factors that determine electoral competition?

In chapters 6 and 7, I empirically assess the influence of campaign spending on election outcomes. In Chapter 6, I look at elections more generally, while in Chapter 7 I explore the institutional differences between state supreme court elections. Does it matter if the election is partisan or nonpartisan? District or statewide? Single- or multi-member district? Drawing on the theory developed in this chapter as well as Chapter 2, I specify multivariate models designed to uncover the influence of campaign spending on state supreme court elections.

Finally, in Chapter 8, I summarize the major results of the dissertation, as well as discuss some directions that future studies should pursue.

CHAPTER 2

MONEY AND STATE SUPREME COURT ELECTIONS

This dissertation focuses on competition and the role of money in state supreme court elections. Specifically, I examine the relationship between candidates, contributors, and voters. State supreme court elections, like elections for all other offices, revolve around these three actors. Further, the relationships between these actors may vary depending on institutional and political context. That is, the relationships between candidates, contributors, and voters may be different in partisan elections compared to nonpartisan elections, single-member seats compared to multi-member seats, statewide elections compared to district elections, or highly electorally competitive states compared to less electorally competitive states.

Money and the Composition of the Bench

Most fundamentally, elections dictate who will sit on the state supreme court bench. Hall (2001a, 326) has shown that the outcomes of judicial elections are shaped by “candidate- and issue-based forces.” Additionally, Bonneau and Hall (2000, 2001) have shown that not only does the presence of a quality challenger decrease the incumbent’s percentage of the vote, but also that the presence of a challenger (and quality challenger) can be understood in predictable ways. However, none of these studies considers the role of campaign expenditures. That is, we do not know if the amount of money spent by candidates in state supreme court elections affects their electoral support, and thus serves to promote or discourage electoral competition. Further, we do not know the extent to

which the influence of campaign spending varies under different institutional arrangements.

It is important to understand the effects of campaign spending on state supreme court electoral outcomes because campaign spending may influence electoral results in unforeseen and unintended ways. On one 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 information 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 by candidates can have positive as well as negative effects and may lead to more competitive elections, since the more information voters have about both candidates, the closer the race should be (Jacobson 1980).

On the other 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.¹ Moreover, spending campaign money on “cynical, negative, and misleading campaign advertisements” leads the public 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.

While these two views clearly conflict, they do share one assumption: campaign spending affects both the function of elections and electoral outcomes. Both camps argue that campaign spending either promotes or inhibits electoral competition. This dissertation tests this assumption in elections to state supreme courts.

Money and the Actors in Judicial Elections

Elections are composed of three primary actors: the candidates who are running for office, the contributors to their campaigns, and the voters. Money affects each actor in a different way.

Money is a necessary condition for candidates to run for office (Heard 1960; Alexander 1972; Jacobson 1980). This holds true regardless of the office being sought.² In order to be competitive, candidates must raise and spend money (Jacobson 1997; Cassie and Breaux 1998). In contested judicial elections between 1990-2000, the mean spending for incumbents was \$405,483, while it was \$225,740 for challengers. Further,

¹ Given the high percentage of incumbents that are reelected (Hall 2001a), this is just as true in state supreme court elections as it is in legislative elections.

² While this statement is truer under some conditions (such as nonpartisan elections), it is no less true for partisan elections. This finding has been confirmed extensively in congressional elections (all of which are partisan), and there is no reason to suspect it would not hold in other partisan elections.

the average spending for winners of open seats was \$379,908, compared to an average of \$283,265 for losers of open seat races. Interestingly, although the minimum amount spent by a challenger who defeated an incumbent was only \$500, the mean spending for all challengers who unseated incumbents was \$399,717.

Why might money be so necessary for success in state supreme court elections? Simply put, money has been found to buy candidates access to voters, both in legislative races (Jacobson 1978, 1980, 1990, 1997; Becker and Dunwoody 1982; Green and Krasno 1988, 1990; Squire and Wright 1990; Banaian and Luksetich 1991; Breaux and Gierzynski 1991; Gierzynski and Breaux 1991, 1993, 1996; Squire 1992; Biersack, Herrnson, and Wilcox 1993) as well as state supreme court elections (McKnight, Schaefer, and Johnson 1978; Dubois 1984, 1986a; Thielemann 1993; but see Arrington 1996). While being exposed to a candidate does not necessarily mean that a voter is more likely to vote for that candidate, in general, voters are more likely to vote for candidates with whom they are familiar (Jacobson 1980; Aspin and Hall 1987, 1989; Alvarez 1997). Thus, in this regard, spending money benefits those candidates with whom voters are unfamiliar (generally nonincumbents), and thus promotes competition. With rare exceptions, state supreme court elections take place in a shroud of anonymity and ignorance.³ Not only are the candidates anonymous, but voters may also be ignorant of the fact that an election is even occurring (Schotland 1985; Arrington 1996). This is especially true in states like Idaho and Wisconsin, where elections for the state supreme court occur in the spring, and not in the fall with elections for other statewide offices.

³ While this is less true in partisan elections (since the voters do have the political party affiliation of the candidates), it is still true to the extent that the candidates themselves are unknown to most of the voters (Champagne and Thielemann 1991).

Money therefore allows candidates to publicize their candidacies. This is more important in elections for state supreme court because, unlike elections for governor or congress, candidates for the high court bench do not receive much “free” publicity (Thielemann 1993; Arrington 1996). A candidate for governor can receive free publicity by announcing a new policy initiative, or by criticizing the incumbent. The same is true for candidates seeking a seat in Congress (Jacobson 1980).⁴ Candidates for the state supreme court are much more restricted in their ability to campaign by the canons of judicial ethics, which prohibit candidates from commenting on cases (and topics) upon which they may eventually decide.⁵ Hence, while a congressional candidate can receive free news coverage by proposing mandatory life sentences for convicted drug traffickers, a candidate for the state high court cannot (or at least could not, until *Republican Party of Minnesota v. White*). Further, most state supreme court races have to compete with elections for other state and federal offices. This, coupled with the relative obscurity of state high court candidates in the first place, make publicizing one’s candidacy essential to success—and it makes such publicity expensive.

The second actor in state supreme court elections is the contributor. Contributors are the actors who decide to whom to give their money and how much they are going to give. Given the importance of campaign spending to the potential success of a candidate,

⁴ Gierzynski and Breau (1991, 1993) find that most candidates for the state legislature also cannot count on receiving much free publicity.

⁵ Note that the recent United States Supreme Court decision in *Republican Party of Minnesota v. White* (2002; 247 F 3^d 854) invalidates most of these restrictions on candidate speech. Now that candidates running for the state high court bench can campaign much like candidates for other elected offices, the influence of campaign spending may increase (and thus we would also expect the amount of money spent to increase). This is because campaign spending will allow the candidates to provide relevant information to the voters about their views that was previously banned. If spending is effective even when candidates cannot provide much meaningful information, it will be even more effective when meaningful information can be provided. Because spending will be more effective, we would thus expect candidates to raise and spend more money, because it is an easy way to increase their electoral support.

contributors play a vital, if not always visible, role in state supreme court elections.

There are several possible motivations for contributing money. Some people (or groups) give money to candidates who share a similar ideology or party affiliation (Welch 1979; Gopoian 1984; Su, Neustadt, and Clawson 1995). In this case, a trial lawyer would donate money to a candidate (likely a Democrat) because they both have a similar philosophy regarding corporate liability and punitive damages. Others are issue-givers; they give money to candidates who agree with them on a particular issue (or issues) (Gopoian 1984; Munger 1989; Hall and Wayman 1990; Grier and Munger 1991; Romer and Snyder 1994). A pro-life organization will give money to those candidates (likely Republicans) who agree with them on restricting a woman's right to choose. Some give money because they personally know the candidate, or know someone who knows the candidate (Thielemann 1993). And still others are motivated to contribute based on the candidate's merits; that is, they truly believe that the candidate is the most qualified for the job.

Contributors play a crucial role in the competitiveness of state supreme court elections. Candidates must be able to spend (and thus need to raise) money in order to be competitive. Evidence presented earlier suggests this is even more important for nonincumbent candidates: the viability of their candidacy may depend, to a large extent, on their ability to publicize their candidacy and increase their name recognition with the voters. Contributors play a key role in the electoral process by enabling some candidates (and handicapping others) to be competitive by providing them with one of their key tools they need to be successful: money.

The voters are the third actor in state supreme court elections affected by money. To the extent that judicial elections are low information, low-salience elections, the electorate usually possesses little (if any) information on the candidates (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). This is compounded by the fact that candidates for judicial office are restricted in what they can say by the canons of judicial ethics.⁶ What does this have to do with campaign spending? The more money raised and spent by a candidate, the more she can get her name out there to the public. Jacobson (1980, 31) found that

Although congressional voters have relatively little information about the candidates, both the extent and content of information they do have a decisive effect on how they vote. Normally, incumbents are much better known than their challengers and so win with relative ease. Challengers have a fighting chance only if they are able to use the campaign period to neutralize the incumbent's informational advantage—which is built up at the public expense over his term of office.

Familiarity and name recognition, in addition to political party affiliation, are essential to a successful candidacy (e.g., Abramowitz 1975, 1988; Jacobson 1978, 1980, 1981, 1997; McKnight, Schaefer, and Johnson 1978; Dubois 1984, 1986a; Schotland 1985; Champagne 1986; Thomas 1989; Banaian and Luksetich 1991; Breaux and Gierzynski 1991; Gierzynski and Breaux 1991, 1993; Squire 1992, 1995; Biersack, Herrmson, and Wilcox 1993). Increasing visibility costs money, and thus to provide voters with a meaningful choice in judicial elections, candidates must raise and spend money.

⁶ Although the status of these canons are in doubt after *Republican Party v. White* (see footnote 5).

There is evidence to suggest that campaign spending does indeed increase the knowledge level of the electorate, and thus contributes to competitive elections.

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 campaign 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), and the higher the spending, the higher the benefits to the electorate, and the more the competitive the election.

The Role and Importance of Institutional Structures

After ignoring institutions for many years, scholars of judicial politics have recently started reexploring the importance of institutional structures to the politics of the judiciary (Hall 1987, 1992, 1995, 2001a, 2001b; Hall and Brace 1989, 1992, 1999; Brace and Hall 1990, 1995, 1997, 2000a, 2000b, 2001). This follows in the tradition of legislative scholars (e.g., Mayhew 1974; Shepsle and Weingast 1987; Rohde 1991; Cox and McCubbins 1993; Hall 1996; Lee and Oppenheimer 1999) as well as those who study the bureaucracy (e.g., Moe 1987; Miller, Hammond, and Kile 1996). The conclusion of

these studies is clear: institutional arrangements matter. Institutional structures shape not only the behavior of the actors within the institution, but also the context in which these actors operate. There are good reasons to suspect that institutional structures will affect both the amount of campaign spending as well as electoral competition and the effectiveness of campaign spending.

The most basic difference in institutional arrangements among states is the method by which the justices are elected. Other things being equal, candidates should need to raise and spend more money in nonpartisan states compared to partisan states. There are two reasons for this. First, having the party label next to the candidate's name provides the voter with a crucial piece of information to guide her decision (Klein and Baum 2001; Schaffner, Streb, and Wright 2001). Second, and relatedly, there is the issue of a partisan baseline vote. Since candidates in partisan states can receive votes from voters who vote a straight-party ballot, while those in nonpartisan states cannot, candidates in partisan states have an electoral advantage absent for candidates in nonpartisan states (and thus partisan races should be more competitive). Money should have more of an effect in nonpartisan races, because the lower the amount of information provided to the voter, the more of an effect the campaign (and therefore money) should have.

For example, consider a nonincumbent candidate running for the state high court bench in a state with statewide, partisan, single-member district elections (such as Alabama, Arkansas⁷, New Mexico, North Carolina, and Texas). If the findings from the congressional literature hold, then this challenger can increase her percentage of the vote

⁷ Arkansas is switching to single-member statewide, nonpartisan elections in 2002. However, since partisan elections were used there for the time period in this study, Arkansas is still classified as a partisan election state.

(make the election more competitive) simply by spending more money. The more money the challenger spends, the higher her level of electoral support will be.

However, what if the same nonincumbent candidate were running for election in a state with statewide, nonpartisan, single-member district elections (like Georgia, Idaho, Minnesota, Montana, Nevada, North Dakota, Ohio, Oregon, Washington, or Wisconsin)? While not much research has been conducted on nonpartisan elections, existing evidence indicates that campaign spending by a candidate serves to increase her percentage of the vote, for both incumbents and nonincumbents (Gierzynski, Kleppner, and Lewis 1998). Thus, unlike for partisan elections (where incumbent spending does not matter), incumbent candidates, like nonincumbent candidates, are able to increase their percentage of the vote by spending more money. This suggests that the incumbency advantage (Jacobson 1978, 1981, 1985, 1989, 1997; Dubois 1984, 1986a; Abramowitz 1988; Banks and Kiewiet 1989; Cassie and Breaux 1998; Erikson and Palfrey 1998; but see Squire and Wright 1990) may be larger in nonpartisan states than in partisan states.

The effects of money should also be contingent on whether the race is being run statewide or in a district. Other things being equal, there should be more campaign spending and this spending should be more effective (translate more easily into electoral support) in district elections as opposed to statewide elections. While no differences have been found in a similar circumstance between U.S. Senate elections, which are statewide, and U.S. House contests, which are run in districts (Jacobson 1978, 1980, 1985; Abramowitz 1988), this could be due to the differences in the offices, and not to the electoral constituency. For state supreme court elections, the office is a constant, while the electoral constituency varies. While the total amounts of spending are likely to be

lower in district-based elections (Gierzynski 1998), the fact that the district is more compact (both geographically and demographically) should lead to spending being more effective (Dubois 1986a; Hogan and Hamm 1998; Reid 1999). This should also lead to more competition, at least under certain conditions. Hall (2001a) found that district-based elections promote competition in nonpartisan elections, but not in partisan elections. Higher levels of spending, then, may lead to more competition in district-based elections as opposed to statewide elections.

The importance of spending also depends on whether the election is for one seat (single-member) or more than one seat (multimember). In multimember races, all candidates run against all other candidates for two or more seats; in single-member races, only one seat is at stake. Competition in multi-member races has been found to be higher than in comparable single-member districts (Cox and Morgenstern 1995). Further, these races tend to be more expensive than single-member district elections (Gierzynski 1998). This is because there are more candidates running in these elections. A candidate will have greater difficulty attaining name recognition if she is running against three other candidates as opposed to only one other candidate, other things being equal. Thus, not only should multi-member races be more expensive, but higher levels of spending should also better promote electoral competition in multimember districts than in single-member districts.

Finally, both electoral competition and the effectiveness of campaign spending should vary depending on the term of office at stake. Other things being equal, longer terms should be more competitive than shorter terms (although Hall (2001a) found no such effects), and campaign spending should be more effective in influencing a

candidate's percentage of the vote when longer terms of office await the victor. Further, races involving a longer term of office should also be more expensive. This is because when state supreme courts have longer terms of office, there are fewer opportunities for candidates to attain a seat on the bench.

Clearly, the amount of campaign spending, electoral competition, and the effectiveness of campaign spending are all likely to be conditional on institutional arrangements. Thus, failing to take into account institutional factors leads to an incomplete understanding of the political process. This is one of the most compelling reasons to study state supreme courts. While we know much about the dynamics of elections and of campaign spending from both congressional and state legislative scholars, we do not know the extent to which those findings are artifacts of the particular institutional arrangements common to both Congress and state legislatures (Gierzynski 1998). Examining elections to state supreme courts allows for the testing of existing explanations of the electoral process and campaign spending under different institutional arrangements.

The Role and Importance of Candidates

Campaign spending should affect how well a candidate does in state supreme court elections, because, quite simply, campaign expenditures allow for the provision of information to voters in a low-information setting. It has already been established that state supreme court elections are generally low-information, low-salience elections (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). In order to make their candidacies known to the electorate, candidates must spend money. The better known the candidate is, the less money she has to spend. Additionally, the better known a candidate is, the higher her percentage of the vote should be, other things being equal. Most basically, “Money is necessary because campaigns do have an impact on election results, and campaigns cannot be run without it” (Jacobson 1980, 33).

Just because candidates are spending money does not necessarily mean that they are spending the money on advertising and other activities publicizing their candidacies.⁸ In order for money to be effective, it must be spent on those campaign activities that make the electorate aware of the candidate. A recent study of state supreme court elections in eight states⁹ from 1989-2000 found that only 16.6% of the over \$55 million dollars spent was not on activities associated with advertising a candidacy (Goldberg, Holman, and Sanchez 2002, 10). Further, in 2000, fully 14% of the money raised by candidates for the state high court bench was used to purchase television airtime (Goldberg, Holman, and Sanchez 2002, 14). It seems safe to conclude that candidates spend most of their campaign funds promoting their election.

In addition to the differential effects of spending based on institutional arrangements, characteristics of the candidates also should affect the efficacy of campaign expenditures. There is no reason to expect that campaign spending should benefit incumbents, incumbents who are facing voters for the first time, and non-

⁸ Other activities candidates spend money on include gifts, contributions to other campaigns, administrative costs, and so forth (Goldberg, Holman, and Sanchez 2002).

⁹ The states included in this figure are Alabama, Illinois, Louisiana, Michigan, Montana, North Dakota, Pennsylvania, and Wisconsin.

incumbents equally. A predominant finding of the congressional elections literature is that incumbent spending is unrelated to their percentage of the vote, or related in a negative direction, such that the more incumbents spend, the lower their percentage of the vote (Jacobson 1980, 1990; Ansolabehere and Gerber 1994; but see Green and Krasno 1988, 1990; Thomas 1989; Banaian and Luksetich 1991; Levitt 1994). There are three possible reasons for this.

First, small shifts in the vote may actually mean the difference between victory and defeat for the incumbent (Green and Krasno 1988). This means that incumbents raise and spend more money the more threatened they are, but since challengers spend more effectively (since they are relatively unknown), it is more difficult for incumbent expenditures to be translated into votes compared to challenger expenditures.

Second, incumbents occasionally overestimate the strength of their opponent, because of uncertainty. Sometimes incumbents will wage full scale campaigns even though their opponent is quite weak. A couple of state supreme court races illustrate this nicely. In 1990 in Kentucky, Charles Leibson outspent Henry Triplett \$135,041 to \$1,500. Leibson won with 72.3% of the vote. In 2000 in Nevada, Nancy Becker spent \$180,729 to Gary Backus' \$930. Becker received 60.8% of the vote. It could be argued that Leibson and Becker overestimated the strength of their opponents.

Third, and finally, methodological issues such as endogeneity could be obscuring the true value of incumbent spending, an issue I tackle in Chapter 3.

While a large majority of congressional incumbents have already won election, this is not true for incumbent state supreme court justices. Some incumbent state supreme court justices are facing the voters for the first time. This occurs because some

justices resign their office before the end of their term, and a replacement is appointed to fulfill the remainder of the term of office. Hence, there are candidates who run as incumbents despite the fact that they have never faced the electorate. Indeed, from 1990-2000, almost 23% of the justices up for reelection initially attained their seats by appointment. Since these incumbents have never faced the voters before, they may not have all of the advantages of incumbents who have previously won elections. If one of the advantages of incumbency is that the incumbent has previously won an election, and thus been endorsed and is known by the electorate (Jacobson 1997), then incumbents who have not yet been elected should experience more electoral competition than their previously elected counterparts as well as spend more money. Further, campaign spending will be more effective for appointed incumbents than it will for previously elected incumbents, since appointed incumbents resemble non-incumbents in the sense that they have not yet been elected.

In contrast to incumbent spending, non-incumbent spending has been found to be highly significant and negatively related to how well the incumbent does. That is, the more nonincumbents spend, the better they do (Jacobson 1978, 1980, 1985, 1990; Abramowitz 1988, 1989; Green and Krasno 1988; Sorauf 1988, 1992; Squire 1989b; Banaian and Luksetich 1991; Gierzynski and Breau 1991, 1996; Ansolabehere and Gerber 1994; Thielemann and Wilhite 1995; but see Erikson and Palfrey 2000). This is generally because more non-incumbents begin the race in relative obscurity, and as they spend more money, they become better known. This leads to higher levels of campaign spending as well as a higher percentage of the vote. That is,

The more information voters have about a candidate, other things being equal, the more likely they are to vote for him. Not that familiarity

invariably breeds approbation; awareness does not always carry a positive valence. But it is generally much better for a candidate to be known than to be unknown by voters (Jacobson 1980, 36-37)

Since judicial elections occur in a more anonymous setting than congressional elections, non-incumbent candidates for state supreme courts should benefit even more from increased spending. This holds true for both challengers to incumbents and for candidates for open seats.

Conclusion

Judicial elections are phenomena that remain largely unexplored. Indeed, until recently, much of what is known came from four states (but see Dubois 1980; Bonneau 2001b; Bonneau and Hall 2000, 2001; Hall 2001a, 2001b): California (Schotland 1985; Dubois 1986a, 1986b), Illinois (Nicholson and Nicholson 1994; Aspin 1998), North Carolina (Moog 1992; Arrington 1996; Reid 1996, 1999), and Texas (Schotland 1985; Jackson and Riddlesperger 1991; Champagne 1992; Thielemann 1993; Champagne and Cheek 1996; Hansen 1998; Cheek and Champagne 2000). While this work has been extremely informative, the findings are limited to those states. Theories of elections and campaign financing have not been systematically tested across all states that elect judges to their high court bench.

This chapter highlighted both the institutional differences that exist among the states as well as candidate specific factors that should affect both the amounts and efficacy of campaign spending. It is important to understand the dynamics of state supreme court elections because the stakes are so high. Calls for election reform and eradication are becoming commonplace, calls that are based on untested claims made by

opponents of an elected judiciary. Put plainly, we have no idea what forces (specifically campaign spending) promote or inhibit electoral competition in state supreme court elections. Further, we have no idea what explains the amount of campaign spending that occurs in state supreme court elections. The following chapters will explore the effects of institutional arrangements and candidate-specific forces on electoral competition and campaign spending in state supreme court elections.

CHAPTER 3

RESEARCH DESIGN, DATA, AND METHOD

This dissertation examines all elections to state high courts over a ten-year period and addresses a fundamental question about electoral competition: Does money affect the electoral performance of state supreme court candidates, and do these effects vary across alternative institutional arrangements? Unlike previous studies, my central focus is on the role of campaign spending. Specifically, I examine the effects of campaign spending on electoral competition.

The Importance of Comparative Research

As discussed quite extensively in Chapter 2, elections for the state high court bench vary on several institutional dimensions. State supreme court races vary in terms of such characteristics as type of ballot, form of electoral constituency, and term of office to name a few. This variation offers a unique opportunity to examine the effects of institutional variation on campaign spending.

While institutional differences can complicate matters both theoretically and empirically, it is essential to test theories in a variety of institutional settings. As Przeworski and Teune (1970, 86) state: “All events are unique. But this does not imply that their explanation cannot be based on general theories. Unless uniqueness is seen in a highly literal sense in which every property of an event is in a class by itself, even unique events do not defy theoretical explanation.” This dissertation tests existing knowledge of electoral competition and campaign spending in new environments. If there is no

variation in the amount of competition and the effects of campaign spending across institutional settings in fully specified models, then one can conclude that these institutional differences have no effect on either electoral competition or campaign spending. Specifically, we can then conclude that the effects of campaign spending on competition cannot be influenced simply by changing institutional arrangements. If, however, significant differences are found between different institutional structures, *ceteris parabis*, then the effects of campaign spending on competition can be altered by changing institutional arrangements. The implication of this is that our current understandings of campaign finance would need to be rethought and take into account the role of institutional arrangements in structuring campaign spending.

In addition to the difference in institutional structures among elections to the state high court bench, there are also institutional differences between congressional elections and state supreme court elections. These differences may limit the ability of congressional research to speak to state supreme court elections. First, state supreme court elections are generally held statewide, while congressional elections are conducted in districts. Based on the discussion in Chapter 2, this may affect both electoral competition and the influence of money. Second, while the public is generally ignorant of congressional candidates, this ignorance is magnified in state supreme court elections (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). Third, and finally, while the term of office for congressional offices is two years, it is minimally six years for state

supreme courts. Thus, seats on the state high court bench may be valued more highly by those who seek them than seats in Congress are valued by those candidates.

When conducting comparative research, it is important that there are enough similarities to make the comparisons meaningful. All of the variation that exists among the states would be meaningless if they made the units of analysis (state supreme court elections) so different from each other that the comparisons would be nonsensical. That is, when conducting comparative analysis, it is important to make sure that the events are comparable. Fortunately, while there are differences between the states that make their examination desirable for the purposes of testing theories of campaign spending, there are also similarities that make this research design appropriate. Here, I examine contested elections to state courts of last resort. Thus, each candidate analyzed in this paper seeks a seat on the state high court bench. Successful candidates will attain a seat on the highest legal authority in their state, and authoritatively decide cases on a variety of legal issues. Most of these elections are competitive. That is, there are at least two candidates for each seat, and each candidate has a non-trivial chance of winning. Additionally, candidates in all of these races have been limited in terms of what they can, and cannot, say (i.e., they are compelled by the canons of judicial ethics to essentially run “issueless” campaigns) (Schotland 2001).¹ Thus, these elections are similar enough across states that comparisons between them are not meaningless.

¹ Again, this is likely to change after the recent United States Supreme Court decision in *Republican Party v. White* (see Chapter 2, footnote 5).

Research Design

Pooled Cross-Sectional Time Series Design. My research design has observations both across space and over time. Cross-sectional time-series data have repeated observations on fixed units—in this case, the fixed units are the states (Beck and Katz 1995). This pooled cross-sectional time series design has several advantages. As Stimson (1985, 916) wrote:

Pooling data gathered across both units and time points can be an extraordinarily robust research design, allowing for the study of causal dynamics across multiple cases, where the potential cause may even appear at different times in different cases. Many of the possible threats to valid inference are specific to either cross-sectional or time-series design, and many of them can be jointly controlled by incorporating both space and time into the analysis.

Cross-sectional studies involve observations over many units at a given period of time. Examples of cross-sectional studies include most research in voting behavior as well as comparative politics. Researchers who utilize cross-sectional designs are interested in covariation, which is “presumed to be produced by unobserved causal processes operating at some time before the data were gathered” (Stimson 1985, 917). In contrast, time series analysts model the causal process in the longitudinal data. Time series designs are common in economics and in studies that use economic data. In these designs, time is theorized to be an important factor in the causal process of the phenomenon of interest.

Instead of making the choice between cross-sectional analysis and time-series analysis, I combine both methods of analyses and perform pooled cross-sectional time-series analysis. This research design capitalizes on the strengths on both forms of analysis. Specifically, “The main advantage to combining cross-sections and time series

in this manner is to capture variation across different units in space, as well as variation that emerges over time” (Sayrs 1989, 7). While performing pooled cross-sectional time series analysis raises its own methodological issues (which will be addressed as necessary), this design is most appropriate to address the questions posed by this dissertation.

Time Period. I look at all contested state supreme court elections from 1990-2000. This time period was selected for several reasons. First, these are the most recent elections. Hence, the results of this study cannot be criticized for being out-of-date, or not taking into account the changing nature of judicial elections. Second, the nature of judicial elections has changed over this period. These races have experienced a rise in the incidence of contestation over the ten years of this study. In 1990, 60% of state high court races contained more than one candidate, while over 80% of these races in 1996, 1998, and 2000 were challenged. Further, while the average margin of victory has ranged from 58% (1990 and 2000) to 51% (1994), the total spending in these races (in actual dollars) has increased from a low of \$364,298 (1990) to a high of \$859,518 (1998). This rise in cost has coincided with increased activity by interest groups, who sometimes spend millions of dollars in independent expenditures in support of (or opposition to) candidates (Goldberg, Holman, and Sanchez 2002). The 1990’s also represent a high point in the criticism of judicial elections, especially as far as the influence of money is concerned (Schotland 2001). Thus, in general, judicial elections were more likely to be less expensive, less contested, and less controversial events at the beginning of the decade than at the end.

Sample. I examine all contested elections in states that elect justices on either a partisan or nonpartisan ballot. The reason I limit my sample to contested races is that I am interested in the effects of campaign spending on electoral competition. For uncontested seats, the victor always receives 100% of the vote, regardless of how much money she spends. Further, while candidates who run unopposed may still raise and spend money, the fact that they are not being challenged means that they will raise and spend less (and devote less effort to raising) money than if they were challenged. The 1992 race in Montana is a good example of this. Justice Bill Hunt ran uncontested and spent \$12,057. Fellow incumbents Jean Turnage and Karla Gray, running in contested elections, spent \$209,304 and \$56,658 respectively.² This suggests that the presence of a challenger affects the amount of money spent by candidates. For these reasons, uncontested races are omitted.

Justices who stand for retention are also 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 candidates running unopposed have no chance of losing), they are not studied here for a couple of reasons. First, of the sixteen states in which justices stand for retention, eight states (Alaska, Arizona, Colorado, Iowa, Nebraska, South Dakota, Utah, and Wyoming) either do not require campaign finance reports or prohibit campaigning by justices seeking retention altogether. Additionally, in another six states (California, Florida, Kansas, Maryland, Missouri, and Oklahoma), while

² Turnage spent significantly more than Gray because he was challenged by a sitting justice for the chief justice position.

candidates are not prohibited from campaigning and spending money, candidates in these elections filed reports indicating no campaign activity. Thus, there is very little 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 races (55.6%) during this time. Second, and relatedly, very few incumbents lose in retention races. While 27 of 110 (24.6%) incumbents were defeated in contested partisan races and 7 of 105 (6.7%) 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 states³ 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

³ Texas has two state supreme courts, 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.

expenditure reports.⁴ New Mexico is omitted because of data availability issues. In New Mexico, campaign finance records are destroyed five years after the election occurs. This eliminates all records, except for the 1998 and 2000 elections. When I attempted to get the records for the 1998 election, I was told they could not be located. After successive attempts to obtain this data were unsuccessful, I decided to omit New Mexico from the analysis. Fortunately, New Mexico only had one contested election in 1998 and none in 2000. Consequently, its omission should not cause any problems for this analysis.

Data

In order to specify models of state supreme court elections properly, I collected data on both the characteristics of the elections and of the candidates. I extensively use Hall's (2000) dataset on state supreme court elections from 1980-1995.⁵ Using a variety of sources, Hall compiled a database of state supreme court elections from 1980-1995, which consists of all state supreme court races from this time period. This database also contains a variety of state and electoral data, and is the only comprehensive dataset on state supreme court elections.

I supplemented the Hall dataset in two ways. First, I assisted in the updating of this data through the year 2000, so the dataset now contains all elections to the state high court bench over a twenty-year period. Second, I collected data on campaign contributions and expenditures for each contested election in the dataset from 1990-2000. These data were obtained by contacting the appropriate office in each state (usually located in the Secretary of State's office) and purchasing copies of the actual campaign

⁴ Interestingly, North Dakota does require candidates to file reports detailing their list of contributors and the amount of each contribution.

⁵ See Hall (2001a) for a discussion of this dataset.

finance reports. It took over four months for the data to be collected, due to difficulties in tracking it down as well as the labor-intensive nature of photocopying and mailing all of the appropriate records. Fortunately, for elections in most states since 1996, the campaign finance data are available on the internet, and this facilitated the data collection immensely.

The campaign finance reports were coded for total amounts spent by the candidates. While each state has different reporting requirements and different filing periods, they all require candidates to file a final report of all expenditures. Since I am primarily interested in the total spending for each candidate in these elections, the fact that the states have different filing requirements and periods does not impede my ability to analyze the data in a systematic fashion.

Just as with federal campaign finance reports, candidates for state supreme court must report the total amounts that they (and their campaign committees) have raised and spent. Omitted from these reports are independent campaign expenditures by people and interest groups. As in federal elections, these expenditures may be playing an important role in judicial elections, especially since the amount of independent expenditures in elections for the state high court is increasing with every successive election cycle (Goldberg, Holman, and Sanchez 2002). Also like federal elections, we have little idea how much is being spent, by whom, and for whom, because there are no disclosure requirements for such expenditures. This is potentially a serious problem. While there is no way in which independent expenditures can be included in the models (because of the lack of disclosure), there is an indirect way its influence can attempt to be taken into account. Media and other reports (i.e., Goldberg, Holman and Sanchez 2002) can be

searched systematically to identify those races with a significant amount of independent expenditures. These races can then be excluded, and the models can be estimated with these races omitted. If my results are robust despite the exclusion of races with a lot of independent expenditures, then this is evidence, albeit indirect, that omitting independent expenditures does not bias my results.

Method

Coefficients. When attempting to assess the influence of campaign spending on the vote, the dependent variable is the percentage of the vote received by the incumbent (incumbent-challenger contests) or the winner (open seat races). The reason why incumbent-challenger contests are analyzed separately from open seat races is that, as discussed above, there is good reason to expect that money affects these races differently (Sorauf 1988, 1992). This, coupled with the other differences between incumbent-challenger races and open seat contests (such as amounts of campaign spending and level of electoral competition), suggest that separate analysis is appropriate.

While the dependent variable is continuous (vote total), models attempting to assess the affects of campaign spending on votes are susceptible to a potential simultaneity problem that can render the ordinary least squares (OLS) results both biased and inconsistent. The argument is as follows: Candidates (challengers in incumbent-challenger contests and any candidate for open seats) thought to have a legitimate shot at winning are likely to attract more contributions than those thought to have little chance at victory. Thus, the better the candidate's chances, the more money she will receive (and consequently be able to spend). The relationship between challenger spending and their

percentage of the vote is potentially reciprocal: money may help win votes, but the expectation that a candidate will receive votes also helps to bring in money. To the extent that this is true (that expected votes influence spending), then using OLS regression will underestimate the effects of spending on votes, since the dependent variable is the percentage of the vote received by the incumbent. The same holds true for incumbents, but in the opposite direction: since the higher their expected vote, the less money incumbents spend, if expected votes influence spending, then the OLS estimates will overestimate the effects of incumbent spending on votes. Jacobson (1980, 1985) and others (Welch 1981; Green and Krasno 1988; Gerber 1998) attempt to account for this problem by estimating two-stage least squares (2SLS) models. In order to do this, one needs to identify measurable variables that will affect contributions (and thus expenditures) without independently affecting the vote. This is no simple task. Further, Jacobson (1985, 39) suspects that “no simultaneous equation model of this type can be suitably identified.” Indeed, “After 20 years of research, the appropriate solution remains elusive” (Jacobson 1997, 38). At the state legislative level, Giles and Pritchard (1985) were unable to identify a satisfactory instrumental variable to test for a reciprocal effect, and several congressional studies continue to use OLS despite its potential problems since 2SLS is no less problematic (Squire 1989b; Jacobson 1996).

The use of 2SLS is problematic for theoretical reasons as well. In order for there truly to be a reciprocal relationship, the vote at time t must affect the money raised at time $t - 1$. However, this is nonsensical. Rather, as Gierzynski and Breaux (1991, 209) point out, “the expectation of how a candidate will perform affects the amount of money that candidates can raise and subsequently spend.” Thus, the relationship is not

$$\text{Expenditures}_{t-1} \Leftrightarrow \text{Votes}_t$$

but

$$\text{Expectations}_{t-1} \Rightarrow \text{Expenditures}_{t-1} \Rightarrow \text{Votes}_t$$

Gierzynski and Breau (1991) take into account the expectations of the closeness of the race in order to correct for potential endogeneity problems. They argue that expectations of the closeness of the race *before the campaign begins* are a way to take into account the expected vote. Using state legislative races, they use the previous electoral margin of the incumbent to take into account expectations of competitiveness. That measure, however, is inappropriate for state supreme court elections for a couple of reasons. First, the minimum term of office for state supreme court seats is six years, unlike the two-year term of state legislators. While it is eminently sensible to argue that an election in 1992 is affected by the election in 1990, it is difficult to conceive of how an election in 1996 is affected by an election in 1990, or even earlier. Second, unlike state legislative incumbents, a large proportion of incumbents are facing the electorate for the first time, and thus have no previous electoral margin. Using a measure of prior electoral performance would mean excluding these incumbents, who make up a non-trivial proportion of the bench. Third, and relatedly, using previous vote total also necessitates the exclusion of all races for open seats.

In order to take into account expectations of the closeness of the race in state supreme court elections, I use a measure of competitiveness of past state supreme court elections. Specifically, I code for whether there was a close election (decided by 55% of the vote or less) in the last election cycle for the state high court. While far from perfect,

this gives an indication of how competitive state supreme court races have been, and signals to contributors whether a challenger has a potential shot at winning.

Another potential measure of the expectations of the closeness of the race is if there was an incumbent defeat in the most recent state supreme court election. The models in Chapters 5 and 6 were also estimated using this measure (coded 1 if an incumbent was defeated in the most recent state supreme court election), and there were no changes in the substantive results. I prefer (and thus use) the prior close race measure as opposed to the recent incumbent defeat measure because I am most interested in electoral competition. In the most recent state high court race, an incumbent could have won with 51% of the vote. While this incumbent was not defeated, the fact that she narrowly won is an indicator of the competitiveness of the race, and may thus affect future state supreme court elections

Endogeneity is a statistical problem as well as a theoretical problem. Specifically, we can perform a Hausman test to check if a variable is truly endogenous (Gujarati 1995; Greene 2000; Wooldridge 2002). If the results of this test indicate that there is no gain in model efficiency by performing 2SLS as opposed to OLS, then there is no reason to use 2SLS since OLS performs just as well. Before settling on an estimation technique, the models will be estimated by both 2SLS and OLS, and Hausman tests will be performed.

Standard Errors. Still another potential problem involves the OLS standard errors. In order to satisfy the assumptions of OLS, the error processes must be assumed to have the same variance and all of the error terms must be independent of each other. In cross-section time-series models, this is a heroic assumption. While this assumption does not affect the coefficients, it does affect the standard errors. This is important

because incorrect standard errors “will lead us to be either too confident or insufficiently confident about whether our findings might merely be statistical artifacts” (Beck and Katz 1995, 636). Because my dataset includes multiple observations from the same state both over time and in a given year, in the strictest sense, observations within states might not be truly independent. To ensure that I am obtaining correct standard errors, I employ Huber/White/Sandwich robust variance estimators, set to recognize the panel structure of the data. These estimators are robust to assumptions about within-group (state) correlation.

Selection bias. It is also possible that the models estimated here are subject to a selection bias since I am only analyzing contested races. By only looking at contested races, if the process by which races are contested is ignored, the coefficients of the models I estimate can be biased and the standard errors inefficient (Achen 1986; Breen 1996; Langer 2002). This is because there are factors that determine whether a race is contested at all that are not being modeled. In order to fully understand the effects of money on electoral competition, *all* races need to be analyzed, not just those that are contested. That is, I need to specify the conditions under which an election is contested before estimating the models on the determinants of campaign spending and the effects of campaign spending on the vote.

Fortunately, James Heckman (1979) has developed a two-stage process that takes into account “the nonrandom nature of the observed phenomenon in stage one and removes the resulting biases in stage two” (Langer 2002, 87). In the context here, this process takes into account the nonrandom nature of being challenged for election and thus allows for the unbiased estimation of the effects of campaign spending in state

supreme court elections. Thus, I estimate the models using Heckman's two-stage correction for selection bias.

Conclusion

This dissertation looks at all states that both have contested judicial elections and require candidates to file campaign finance reports. Looking at twenty states over a ten-year time period allows me to assess the determinants of electoral competition as well as the impact of campaign spending on electoral competition both across states and over time. I employ this research design in order to best test existing knowledge of campaign finance in state supreme court elections.

The following chapters empirically examine the determinants of campaign spending as well as effects of campaign spending on electoral competition in state supreme court elections. Specifically, I ask:

1. What are the determinants of campaign spending?
2. What factors promote (or discourage) electoral competition?
3. Do the effects of money vary depending on institutional arrangements?

Answering these questions will give us a good start into understanding the effects of campaign spending on state supreme court elections.

CHAPTER 4

DESCRIBING STATE SUPREME COURT ELECTIONS

State supreme court elections possess extraordinary variation both across states and over time, in terms of both electoral competition and campaign spending. As the following tables demonstrate, electoral competition and campaign spending vary based on year, candidate, and type of election. The extent to which this variation can be understood systematically is the subject of subsequent chapters.

State Supreme Court Elections Over Time

Not surprisingly, state supreme court elections have, on average, become more expensive over the period of this study, as Table 4.1 shows.

Table 4.1: 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)

Looking at all contested elections in this period, spending has increased, on average, from 1990-2000. In general, each successive election has been more expensive than the previous election. This holds true for both partisan and nonpartisan elections.

One can also see from Table 4.1 that partisan elections, in the aggregate, are always more expensive than nonpartisan elections. Indeed, it was only in 2000 that nonpartisan elections reached the spending levels achieved in partisan elections in 1992. However, while it is too early to tell if this is a trend or just an anomaly, the gap between spending in partisan elections and nonpartisan elections in 2000 was the smallest it has ever been.

While Table 4.1 demonstrates that state supreme court elections are becoming more expensive, these spending figures do not factor in inflation. It could be the case that the rise in costs is due in large part to inflation. In Table 4.2, I adjust the spending figures in Table 4.1, and report the spending amounts in 1990 dollars.

Table 4.2: 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)

As Table 4.2 demonstrates, while the campaign spending increases are not as dramatic when measured in 1990 dollars, they are still becoming more expensive over the decade of the 1990's. Candidates for the state high court bench are still spending more money in 2000 than they were in 1990 even when spending is measured in constant dollars. A couple of examples illustrate this pattern nicely.

Justice John Cornyn won his partisan election to the Texas Supreme Court over Democrat Gene Kelly in 1990, spending \$374,659. In his bid for reelection, he spent \$864,160 (\$705,245 in 1990 dollars) to defeat Democrat Patrice Barron. Justice Deborah Cook defeated J. Ross Haffey in a 1994 nonpartisan election for the state high court bench in Ohio, spending \$431,978 (\$370,748 in 1990 dollars) in the process. She was reelected in 2000, defeating Timothy Black, and spent \$640,817 (\$478,473 in 1990 dollars) in her bid to retain her seat.

Interestingly, Table 4.2 indicates that the most expensive races, on average, were in 1994 and 1998 (especially in partisan states). One potential reason for this may be the fact that these are mid-term elections. The absence of a presidential party candidate may free up more money for contributors to donate to state high court candidates. It will be interesting to see if this pattern continues in 2002.

Table 4.3 looks at campaign expenditures by type of candidate over time.

Table 4.3: Average Spending for Each Type of Candidate by Year, Contested General Elections 1990-2000

Year	Incumbent	Challenger	Winner of Open Seat	Loser of Open Seat
1990	\$276,787	\$79,073	\$294,688	\$91,372
1992	\$288,903	\$239,940	\$321,455	\$376,686
1994	\$474,653	\$182,013	\$504,750	\$382,348
1996	\$352,823	\$245,619	\$263,126	\$207,116
1998	\$544,891	\$253,233	\$496,098	\$496,911
2000	\$476,009	\$378,046	\$384,716	\$321,087

As can be seen from Table 4.3, spending by all types of candidates is higher in 2000 than it was in 1990. This holds even if we look at spending in 1990 dollars (not shown). Given what we saw in Table 4.1, it is not surprising that candidates are spending more money at the end of the decade as opposed to the beginning (since elections are more expensive), but this leads to the question of the effects this spending has on competition. Are candidates spending more money in their electoral bids because it increases their percentage of the vote? Or is the spending by state supreme court candidates fruitless, yielding no gain in electoral support? Or does the efficacy of spending vary depending on the type of candidate? These questions will be answered over the next two chapters.

This dissertation focuses on the effects of campaign spending on competition. Thus, it is natural to ask: Have races for the state high court bench become more competitive over the period of this study, or simply more expensive? The answer to this question is provided in Table 4.4.

Table 4.4: Average Percentage of the Vote by Year, Contested General Elections 1990-2000

Year	All Elections	Partisan Elections	Nonpartisan Elections
1990	56.64	55.73	58.00
1992	54.83	55.25	54.35
1994	53.11	52.66	53.58
1996	56.08	55.77	56.39
1998	57.87	53.98	62.02
2000	57.93	60.69	55.65

While state supreme court races were becoming more competitive from 1990 to 1994, this trend was reversed beginning in 1996, and now the pattern is toward less competitiveness. Indeed, state supreme court elections, on average, were more competitive in 1990 than in 2000. Looking at partisan and nonpartisan elections, no patterns are evident. Partisan elections are, in general, more competitive than nonpartisan elections, but the average percentage of the vote received by the winning candidate was over 60% in the year 2000 for contested elections that occurred in partisan states. Likewise, after having relatively competitive elections from 1990-1996, in 1998 contested nonpartisan elections were won by an average of over 62%. Looking at the examples discussed earlier reinforces these aggregate findings.

Recall that in the two races discussed above, the incumbent candidate spent more in her second election than in her first. Does this increased spending yield more or less competition? In Texas, Supreme Court Justice John Cornyn, despite spending more money in 1996 than in 1990, saw his percentage of the vote drop from 55.67% to 51.99%. In 1994, Ohio Supreme Court Justice Deborah Cook won with 68.05% of the vote, but she only received 51.88% of the vote in 2000. In her case, higher levels of spending also led to a lower level of electoral support. While these are only two cases, these examples add plausibility to the claim that campaign spending may actually promote competition (or at least does not inhibit it).

In Table 4.5, the average percentage of the vote received by incumbents and winners of open seats are displayed.

Table 4.5: Average Percentage of the Vote by Type of Election and Year, Contested General Elections 1990-2000¹

Year	Incumbent-Challenger	Open Seats
1990	56.30	57.23
1992	55.35	53.73
1994	54.32	51.42
1996	54.22	60.02
1998	58.98	55.16
2000	57.99	57.81

¹ Average vote for incumbent-challenger contests is the average percentage of the vote for the incumbent; for open seats, it is the average percentage of the vote for the winner.

There is no discernible pattern toward more competitive elections in terms of type of election from 1990-2000, confirming what we saw in Table 4.4. While contested elections in 2000 were more expensive than elections in 1990, contested elections in 1990 were more competitive, both for incumbent-challenger contests and races for open seats. Additionally, while 1994 was the most competitive year overall (although 1996 was slightly more competitive for partisan races), Table 4.3 shows that the 1994 election was characterized by large spending discrepancies between incumbents and challengers and the winner and losers of open seats. Thus, while state supreme court races are becoming more expensive, they are not also necessarily becoming more competitive.

Partisan versus Nonpartisan Elections

In addition to seeing how state supreme court elections vary over time, it is also interesting to see the variations by selection system. The tables above indicate that partisan elections, on average, are more expensive than nonpartisan elections. In Table 4.6, I break down this spending by type of candidate.

Table 4.6: Average Spending for Each Type of Candidate by Method of Selection,
Contested General Elections 1990-2000

Selection Method	Incumbent	Challenger	Winner of Open Seat	Loser of Open Seat
Partisan	\$524,356	\$257,372	\$452,075	\$381,806
Nonpartisan	\$306,702	\$228,624	\$279,053	\$212,894

Incumbents in contested partisan elections spend the most money, according to Table 4.6, while losers of open seats in contested nonpartisan elections spend the least. Incumbents spend the most money, regardless of the type of election. Further, winners outspend losers in both partisan and nonpartisan elections. Table 4.6 also shows that the spending patterns of candidates are the same in contested partisan and nonpartisan elections (incumbents spend more than challengers, winners spend more than losers) even though there is more spending in partisan elections overall. A few examples make this point clear.

Alabama Supreme Court Justice Mark Kennedy was challenged by Harold See in 1994. Kennedy outspent See \$730,875 to \$293,802. In the same election year, Terry Butts and Robert Russell battled for an open seat on the Alabama high court bench. Butts, who won the election, outspent Russell \$968,097 to \$156,395. In this partisan election state, consistent with the aggregate information seen in Table 4.6, the incumbent outspent the challenger and the winner of an open seat outspent the loser.

The state of Washington elects its Supreme Court Justices in nonpartisan elections. In 1998, Justice Barbara Madsen spent \$40,687 in her successful bid for reelection, outspending her opponent, Jim Bates, who only spent \$24,806. There was also a contest for an open seat on the Court that year, which saw Faith Ireland defeat Jim Foley, outspending him \$87,580 to \$8,209 in the process. Again, the incumbent spent more than the challenger, and the winner of an open seat outspent the loser. Also note that while this pattern was true for both partisan and nonpartisan elections, partisan elections involved higher levels of spending than the nonpartisan elections, consistent with Table 4.6.

In Table 4.7, we can see the average percentage of the vote for each type of election and method of selection.

Table 4.7: Average Percentage of the Vote by Type of Election and Method of Selection, Contested General Elections 1990-2000

Selection Method	Incumbent-Challenger	Open Seat
Partisan	55.06	56.96
Nonpartisan	57.39	54.27

The average percentage of the vote in incumbent-challenger contests is significantly different from the average percentage of the vote in open seat contests for both partisan and nonpartisan elections. Incumbent-challenger contests in partisan elections are almost 2% more competitive than open seat races. Curiously, this is reversed in nonpartisan states, with open seats being over 3% more competitive than incumbent-challenger contests. Indeed, the least competitive elections are incumbent-challenger races in nonpartisan states. Thus, not only is campaign spending conditional on type of election, but electoral competition is as well.

Returning to the specific races discussed above, Justice Kennedy defeated See in the incumbent-challenger race in Alabama in 1994 with only 50.30% of the vote. In contrast, in the open seat race, Terry Butts received 53.57% of the vote, defeating Robert Russell. Consistent with the evidence just discussed, the open seat race was less competitive than the incumbent-challenger contest. In the nonpartisan races in Washington in 1998, this was reversed. Faith Ireland won the open seat race over Jim Foley with 68.13% of the vote, while Justice Barbara Madsen won her reelection bid over Jim Bates with only 60.79% of the vote.

State-by-State Comparisons

The final way in which the campaign spending and competition data will be described is by state. In addition to the variations over time, by type of candidate, and by selection system, the political context of each state in this study affects both spending and electoral competition. Even though two states may select justices in the same manner (i.e., partisan elections), there may be more spending or more competition in one state

because of factors unique to the state. For example, consider Louisiana and Illinois, two states that elect their justices by partisan elections in districts. As the following tables will demonstrate, races in Louisiana are both more expensive and more competitive. However, there are also more uncontested races in Louisiana. Thus, while the contested races in Louisiana are more expensive and competitive than those in Illinois, it is also less likely that a race in Louisiana will be contested. This indicates that electoral factors unique to each state also affect campaign spending and competitiveness in state supreme court elections.

In Table 4.8, the average spending for each type of candidate is broken down by state.

Table 4.8: Average Spending for Each Type of Candidate by State, Contested General Elections 1990-2000

State	Incumbent	Challenger	Winner of Open Seat	Loser of Open Seat
Partisan				
Alabama	\$602,762	\$517,456	\$1,010,295	\$761,620
Arkansas	\$60,855	\$26,214	\$244,295	\$250,105
Illinois	-----	-----	\$258,276	\$248,638
Louisiana	\$924,472	\$650,901	\$397,608	\$362,205
N. Carolina	\$202,342	\$107,124	\$250,924	\$56,849
Pennsylvania	-----	-----	\$991,216	\$1,121,768
Texas (Civil)	\$1,008,019	\$318,614	\$813,726	\$483,023
Texas (Crim.)	\$102,064	\$40,523	\$67,651	\$66,761
W. Virginia	\$711,193	\$180,138	\$400,038	\$235,295
Nonpartisan				
Georgia	\$128,591	\$77,334	-----	-----
Idaho	\$129,825	\$88,423	\$65,057	\$99,134
Kentucky	\$155,457	\$392,516	\$122,407	\$232,758
Michigan	\$619,722	\$442,439	\$578,928	\$250,025
Minnesota	\$108,489	\$4,381	\$57,061	\$8,954
Mississippi	\$267,910	\$271,565	\$191,461	\$71,465
Montana	\$138,406	\$111,384	\$291,918	\$178,240
Nevada	\$373,261	\$253,787	\$427,562	\$134,194
Ohio	\$562,642	\$329,791	\$391,553	\$451,198
Oregon	\$110,325	\$114,194	\$159,938	\$107,378
Washington	\$80,329	\$46,715	\$129,489	\$113,689
Wisconsin	\$367,316	\$326,159	\$405,349	\$461,053

Incumbents spend more money than challengers, except in Kentucky, Mississippi and Oregon. However, if only the second-place vote-getter, as opposed to all challengers, is considered, then challengers in Mississippi spend \$231,231 and challengers in Kentucky spend \$105,197, both lower than the amount spent by incumbents. (Challengers continue to spend more than incumbents in Oregon.)

Table 4.8 also reveals that winners generally spend more than losers, although there are notable exceptions (Arkansas, Idaho, Kentucky, Ohio, Pennsylvania, and Wisconsin). If only the second-place vote-getter—the primary loser—is considered, the results remain the same, except for in Wisconsin, where the primary loser spent, on average, \$148,960, lower than the amount spent by the incumbent.

In terms of highs and lows, incumbents on the Texas Supreme Court spent the most money in their reelection bids, while incumbents in Arkansas spent the least. Challengers for the state supreme court in Louisiana spent the most money in their election attempts, while those in Minnesota spent the least. The Louisiana statistic is interesting, considering candidates there run in districts and not statewide. Perhaps challengers spend this much money because the incumbency advantage is stronger in Louisiana than in other states. Looking at open seats, winners of elections in Alabama spent the most and winners in Minnesota the least. Finally, in terms of the losing candidates in open seat elections, those in Pennsylvania spent the most, and, once again, those in Minnesota spent the least.

Clearly, there is much variation in campaign spending by state. A good example of this is the incumbent spending variable. Both the highest amounts of spending (Texas) and the lowest (Arkansas) come from partisan election states. The state in which the

election is occurring is an important source of variation, beyond that which can be accounted for by institutional variables, such as selection system.

Are there also state-by-state variations in terms of electoral competition? The answer can be found in Table 4.9.

Table 4.9: Average Percentage of the Vote by Type of Election and State, Contested General Elections (number of elections in parentheses) 1990-2000

State	Incumbent-Challenger	Open Seats
Partisan		
Alabama	57.14 (11)	56.39 (6)
Arkansas	65.18 (3)	55.41 (3)
Illinois	----- (0)	54.89 (8)
Louisiana	47.18 (3)	51.85 (3)
North Carolina	49.40 (11)	58.72 (1)
Pennsylvania	----- (0)	52.43 (4)
Texas (Civil)	62.14 (17)	56.29 (3)
Texas (Criminal)	52.73 (12)	59.12 (8)
West Virginia	50.28 (2)	66.91 (4)
Nonpartisan		
Georgia	55.66 (3)	----- (0)
Idaho	49.53 (2)	57.21 (1)
Kentucky	50.19 (5)	47.77 (4)
Michigan	56.34 (11)	47.21 (3)
Minnesota	63.77 (9)	62.32 (1)
Mississippi	50.76 (9)	62.08 (2)
Montana	57.11 (3)	54.20 (3)
Nevada	51.12 (3)	56.62 (3)
Ohio	60.30 (11)	57.77 (3)
Oregon	61.98 (2)	51.38 (1)
Washington	57.27 (10)	55.07 (6)
Wisconsin	63.66 (4)	56.94 (2)

As Table 4.9 shows, in some states, incumbent-challenger contests are more competitive, while in other states, this label belongs to races for open seats. Further, some partisan states have more competitive incumbent-challenger races (such as Louisiana and North Carolina), while others have more competitive open seat contests (such as Alabama and Arkansas). It is important to remember that only contested races are included, so these data do not speak to whether an incumbent (or other candidate) is likely to be challenged. However, these data do indicate that in competitive elections, incumbents in some states are likely to have quite a battle on their hands.

Looking at the highs and lows, the most competitive state for incumbent-challenger contests is Louisiana (which is somewhat surprising since these elections occur in districts, and not statewide), while Arkansas is the least competitive, with incumbents being reelected with 65% of the vote, on average. Open seats in Michigan are the most competitive in that category, while those in West Virginia are not very competitive at all—the winners receive over 2/3 of the vote. This is interesting because both Michigan and West Virginia elect their justices in multi-member districts. Just as with campaign spending, there are interesting variations between states that cannot be accounted for by institutional factors.

In sum, the data demonstrate that there is extraordinary variation between states both in campaign spending and electoral competitiveness. Incumbents generally outspend challengers, on average, and winners usually outspend losers. However, there are cases where challengers do outspend incumbents, and where losers outspend winners. Further, in some states incumbent-challenger contests are most likely to be highly competitive, while in others it is the races for open seats.

Conclusion

State supreme court elections vary tremendously over time, by type of election, and by state. This variation occurs for both campaign spending and competition. Further, in terms of campaign spending, patterns of spending vary depending on the type of candidate.

This chapter described the campaign spending of candidates for the state high court bench, as well as electoral competition. In addition to the variation that has occurred over time, I found that both spending and competition varied by institutional arrangements as well as by state. However, what this chapter did not address is what are the determinants of campaign spending. Can the amount of money spent in a race be understood systematically? This question is the focus of the next chapter.

CHAPTER 5

EXPLAINING CAMPAIGN SPENDING

We have just seen in Chapter 4 the wide variation in campaign spending by type of election, by year, and by state. What explains this variation? Why do some races involve more spending than others? In this chapter, I look at the predictors of campaign spending, and then, in the next two chapters, focus my attention on the effects of campaign spending on state supreme court election outcomes.

Specifying the Model

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 state and electoral 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 Chapter 4, we saw that in some states open seat races were more expensive, while in 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).¹ Thus, 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;

¹ Indeed, this is the reason given for estimating these kinds of models using 2SLS (see discussion in Chapter 3).

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 Chapter 4, we saw that nonpartisan races, in general, involved less spending than partisan elections. Thus, 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*).

State and Electoral 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 1989b; 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 thus 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 clearly in Table 4.8 looking at the two Texas courts of last resort: The amounts 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). 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 5.1 lists all of the variables included in the analysis, along with their exact measurement.

Table 5.1: 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>State 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

Estimation Technique

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

As mentioned in Chapter 3, there is a potential selection bias since I only observe the dependent variable (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 2001), 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 (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 (2001) 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 5.2

Table 5.2: 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

The Determinants of Campaign Spending

Table 5.3 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 (as seen in the Appendix, Table A.1).

Table 5.3: 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	0.217	0.171	1.266	0.205
Race				
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

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 state legislative findings, 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. 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 state 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

In this chapter, I sought to explain the determinants of campaign spending in state supreme court elections. The evidence indicates that there is more campaign spending when the race is expected to be close, there are fewer seats on the ballot, the race is nonpartisan, the term of office is relatively long, and a higher percentage of the docket is occupied by tort cases. The evidence presented indicates that the amounts of campaign spending in state supreme court elections can be understood systematically, and is a function of characteristics of the seat, institutional characteristics, and the state and electoral context.

Now that I have analyzed the predictors of campaign spending, I turn my attention to the effects of campaign spending on electoral competition. Does campaign spending affect electoral competition? Do these effects vary based on institutional arrangements? These questions are the subject of the next two chapters.

CHAPTER 6

THE EFFECTS OF MONEY ON VOTES: NON-INSTITUTIONAL MODEL

In Chapter 4, we saw that the patterns of competition and campaign spending vary over time, by type of election, and by state. In Chapter 5, I analyzed the determinants of campaign spending. However, we have yet to see what difference all of the money spent in state supreme court elections makes. In this chapter, I specify multivariate models in order to explain the variation just discussed. Specifically, looking at general elections for the state high court bench, I address whether money affects electoral outcomes (Chapter 6), and whether the effects of money vary depending on institutional arrangements (Chapter 7). Because of the different dynamics present in elections for open seats (Sorauf 1988, 1992), I analyze these contests separate from incumbent-challenger contests.

While the importance of institutional arrangements in structuring both judicial behavior (Hall and Brace 1989, 1992; Brace and Hall 1990, 1995, 1997; Hall 1992, 1995) and judicial elections has been demonstrated convincingly (Hall 2001a), I omit them in this chapter to demonstrate how omitting institutional variables affects the conclusions one reaches about the determinants of competition as well as the role of campaign spending. Just as omitting institutional variables leads to incorrect inferences in models of state supreme court decision-making, by comparing models estimated without institutional variables with models that include these variables, we can see how incorrect inferences about both competition and campaign spending would be made.

Specifying the Models

Dependent Variables. The dependent variable in the incumbent-challenger models is the percentage of the vote received by the incumbent (*Incumbent Vote*). In the open seat models, the dependent variable is the percentage of the vote received by the winning candidate (*Winner Vote*).

Independent Variables. The key independent variables of interest in this analysis are the level of spending by the candidates in the election. For incumbent-challenger races, consistent with the congressional and state legislative research, the amount spent by the incumbent (*Log of Incumbent Spending*) should not positively affect the electoral support of the incumbent (Jacobson 1978, 1980, 1990; Ansolabehere and Gerber 1994; but see Green and Krasno 1988, 1990; Thomas 1989; Levitt 1994). However, contrary to the findings about incumbent spending, challenger spending (*Log of Challenger Spending*) has been found to significantly affect the vote of the incumbent in a negative direction (Jacobson 1978, 1980, 1990; Abramowitz 1988, 1989; Squire 1989b; Gierzynski and Breaux 1991, 1996; Sorauf 1992; Ansolabehere and Gerber 1994; Thielemann and Wilhite 1995; but see Erikson and Palfrey 2000). That is, the more money spent by the challenger, the lower the incumbent's percentage of the vote. I expect the same to hold true here.

In terms of open seats, the spending of both candidates should positively impact their electoral support (*Log of Winner Spending* and *Log of Loser Spending*). This is because neither candidate has the advantages of incumbency. In order to become better known, candidates need to spend money (Jacobson 1978, 1980, 1990, 1997; McKnight, Schaefer, and Johnson 1978; Becker and Dunwoody 1982; Dubois 1984, 1986a; Green

and Krasno 1988, 1990; Squire and Wright 1990; Banaian and Luksetich 1991; Breaux and Gierzynski 1991; Gierzynski and Breaux 1991, 1993, 1996; Squire 1992; Biersack, Hermson, and Wilcox 1993; Thielemann 1993; but see Arrington 1996), and the more they spend, the better they should perform with the electorate.¹

While I am primarily interested in the effects of campaign spending on the percentage of the vote received by the candidates, in order to properly specify these models, other factors hypothesized to impact the incumbent's (or winner's) percentage of the vote must also be included. These variables fall under two general categories: candidate characteristics and the state and electoral context.

Candidate characteristics. In addition to the spending variables, there are three other candidate characteristics that should affect the electoral support of the candidates. First, the quality of the candidates should matter. Regardless of whether a candidate is challenging an incumbent, or running for an open seat, candidates with prior judicial experience should fare better than candidates without such experience (Bonneau and Hall 2000, 2001), just as candidates with prior elected experience perform better than candidates without such experience in legislative races (Jacobson 1980; Green and Krasno 1988; Van Dunk 1997). Other things being equal, I expect that a challenger with prior judicial experience (*Quality Challenger*) will reduce the incumbent's percentage of the vote. Likewise, the winner of an open seat having prior judicial experience will increase her percentage of the vote (*Quality Winner*), while the winner's percentage of

¹ Consistent with the congressional literature, I elect to use measures of each candidate's spending here instead of the difference between candidate spending because the effects of a candidate's campaign spending depends on which candidate is spending the money. Thus, campaign spending by the challenger may matter while that of the incumbent may not. Or challenger spending may be negatively related to the incumbent's percentage of the vote (as hypothesized), while incumbent spending is positively related to her level of electoral support. Using a measure of the difference in spending would not allow me to assess the effects of each candidate's campaign spending on electoral competition.

the vote will be decreased if the losing candidate has prior judicial experience (*Quality Loser*).

The political party of the incumbent (or winner) is also important, as it might also influence her level of electoral support. In some states, being affiliated with a particular party (such as the Democratic Party) may help a candidate's chances of winning election, while in others it will hinder the candidate's hopes. Thus, I need to devise a measure that takes into account a candidate's party, conditional on the current partisan climate of the state. There are a few different ways to do this. First, I could use the statewide vote during the last presidential election (or current election if it is occurring in the same year). Thus, for a Democratic candidate running in Arkansas in 1992, this variable would be coded as 1 since the Democratic presidential candidate received a majority of the popular vote in Arkansas. The same would hold true for those Democratic candidates running in 1994, since the last presidential election was in 1992. Second, I could do the same thing, except use the gubernatorial results. Third, and finally, I could use the results from U.S. Senate races.²

Here, I develop a composite measure that takes into account all of the measures above along with the political party of the justice (*Partisan Consonance*). This measure takes into account the degree of partisan consonance among the statewide elected officials in the state. If the incumbent justice (or winning candidate), and the winning presidential, gubernatorial, and senatorial candidates are all of the same party, then there

² Alternatively, I could see if there was any evidence of "coattails" at either the presidential or gubernatorial level. That is, I could examine if state supreme court candidates benefit if a presidential or gubernatorial candidate of their political party wins election on the same ballot. When the measures of coattails were included, however, they failed to achieve statistical significance. Given the high degree of collinearity between the coattail variables and the measure of partisan consonance, both variables cannot be included in the final model. Given the theoretical importance of the partisan consonance measure, the importance of what it measures, and the failure of any coattail effects to achieve significance, I opt to include the partisan consonance measure in my final specification.

is a high degree of partisan consonance, and competition should be decreased for members of the majority party.³ Likewise, if the justice is of the opposite party of the winning presidential, gubernatorial, and senatorial candidates, then this lack of partisan consonance should lead to more competition.⁴

Hall (2001b) recently found that older justices are more likely to retire rather than stand for reelection. While older justices are more experienced, the findings by Hall (2001b) suggest that these justices may be electorally vulnerable, and thus choose to retire rather than face the electorate. Older justices may be more likely to be perceived (and characterized) as out-of-touch with the electorate, as well as be perceived as unable to keep up with the workload on the court. Thus, other things being equal, I expect that older justices (*Age*) will be more likely to experience competitive races.

For incumbent-challenger races, as has been discussed earlier, not all incumbents are alike. Incumbents who have previously won election have faced the electorate before and have had their candidacies approved. This is not the case for those who are facing their first election. Thus, incumbents who have not yet faced the electorate (*Appointed First*) may be more likely to receive less electoral support than their previously elected colleagues, although Hall (2001a) found no evidence of such an effect.

State and Electoral Context. Whether the incumbent or winner was challenged in the primary could also affect her percentage of the vote. Other things being equal, if an incumbent (or winner) had to run in a primary as well as a general election, her

³ If the election was held in the same year as the election for the state supreme court election, then I use these results. However, if there is no election for the office in the same year as the state supreme court election, then I use the results from the most recent election. Thus, elections in 1996 use the 1996 presidential results, as do elections in 1998.

⁴ An alternative way to code this variable is to use the percentage of partisan consonance, as opposed to an ordinal scale. When the percentage measure is used, there are no changes to the substantive results.

percentage of the vote in the general election should be lower. This is because having to face a primary challenge is an indication of candidate vulnerability, and vulnerable candidates should receive fewer votes than non-vulnerable candidates. Hence, I include a variable that indicates whether the incumbent or winner was challenged in the primary (*Compete*).

As discussed extensively in Chapter 3, in order to account for the potential endogeneity problems, I need some measure of state supreme court competitiveness. For the reasons discussed earlier, I include a variable indicating whether there was a close state supreme court election (decided by 55% of the vote or less) in the most recent electoral cycle (*Prior Close Race*). As a measure of state supreme court competitiveness, it is expected that a previous competitive state supreme court race will lead to a lower percentage of the vote for the incumbent (or winner).

Whether partisan control of the court is at stake is also likely to affect competitiveness (*Control of Court*). Specifically, if partisan control of the court is at stake in the election, then the race should be more competitive, as both parties and candidates will attempt to either gain control of the court or solidify their control of the court.

Unlike U.S. House races, the electoral constituencies of state supreme court candidates vary in size. Some candidates run statewide, while others run in districts. Even more fundamentally, some states are bigger than others. That is, spending \$1,000 in Alabama is not the same as spending \$1,000 in Texas. Thus, in order to control for the size of the electorate, I include a variable measuring the size of the voting age population

(*Voting Population*), consistent with studies of campaign finance in the U.S. Senate (Squire 1989b, 1992) and state gubernatorial races (Partin 2002).

Like other elected officials, state supreme court justices may be held accountable for issues perceived to be under their control. There has been a significant body of literature demonstrating that the voters make retrospective decisions on incumbent governors and legislators based on the state of the economy (Atkeson and Partin 1995; Lowry, Alt, and Ferree 1995; Niemi, Stanley, and Vogel 1995; Svoboda 1995; Carsey and Wright 1998). Further, the same has been found in both presidential and congressional elections (e.g., Jacobson 1997). Applying this to state high court elections, Hall (2001a) found that incumbent justices performed worse the higher the murder rate in their state was, indicating that these incumbents were held responsible for the state of public safety. Consistent with this, I expect that there will be more competition in incumbent-challenger races the higher the murder rate in the year prior to the election (*Murder Rate*).

Just as the percentage of the high court docket occupied with tort cases affected the total amount of money spent, it also should affect electoral competition. Given the amount of money at stake in these types of cases, both trial lawyers and corporations and defense lawyers will want to ensure the election of judges sympathetic to their cause. Specifically, the higher the percentage of tort cases on the docket (*Tort Docket*), the more electoral competition there should be.

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 6.1 provides a complete list of all of the variables and their exact measurement.

Table 6.1: Variable Descriptions for a Model of Electoral Competition in State Supreme Court Elections

Variable		Variable Description
Vote	=	percentage of the vote in the general election for the incumbent (or winner for open seats)
<i>Candidate Characteristics</i>		
Log of Incumbent Spending	=	log of total campaign spending for the incumbent
Log of Challenger Spending	=	log of total campaign spending for the challenger
Log of Winner Spending	=	log of total campaign spending for the winner
Log of Loser Spending	=	log of total campaign spending for the loser
Quality Challenger	=	1 if incumbent was challenged by a candidate with prior judicial experience 0 otherwise
Quality Winner	=	1 if winner had prior judicial experience 0 otherwise
Quality Loser	=	1 if loser had prior judicial experience 0 otherwise
Partisan Consonance	=	degree of partisan consonance between the incumbent (winner) and the presidential, gubernatorial, and senatorial candidate
Age	=	age of the incumbent
Appointed First	=	1 if the incumbent was originally appointed to the Court 0 otherwise
<i>State and Electoral Context</i>		
Compete	=	1 if the incumbent or winner was challenged in both the primary and general election 0 otherwise
Prior Close Race	=	1 if recent judicial election was decided by 55% of the vote or less 0 otherwise
Control of Court	=	1 if partisan control of the court is at stake 0 otherwise
Voting Population	=	voting age population of the state/district (1000s)
Murder Rate	=	State murders and nonnegligent manslaughter per 100,000 population, lagged one year
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

Specification

There are two popular specifications for campaign spending models. First, campaign spending can be modeled linearly, and the amount of spending can be simply entered into the model. However, this assumes that the campaign spending is related to votes in a linear fashion. That is, one additional dollar of spending has the same effect on electoral support, regardless of how much was spent previously. Thus, if a candidate has already spent \$100,000, the linear specification assumes that one more dollar of spending will have the same effect on her percentage of the vote than if she had only spent \$100. This does not make much sense, as spending should have more of an effect on the percentage of the vote at lower levels of spending than at higher levels of spending.

A popular alternate specification is the semi-log model (Welch 1976; Jacobson 1996; Partin 2002). Semi-log models allow for diminishing marginal returns. Thus, these models allow for the fact that spending has differential effects on the level of electoral support depending on how much money was spent previously. There is one major drawback to semi-log specifications. The natural log of zero is undefined. While this is not a major problem in the congressional literature (since very few candidates spend \$0), in the state supreme court races examined here, 13 candidates (12 challengers and 1 loser of an open seat) spent no money. In order to account for this, and to avoid dropping these races, I assume that these candidates spent \$1. While spending \$1 is different than spending \$0, this change should not affect the results. Indeed, when the races where a candidate spent \$0 are omitted, the same results are obtained.

I also estimate the models using the linear specification. The substantive results are identical: the same variables are significant under both specifications. Because the

semi-log model allows for diminishing marginal returns, and thus is theoretically more appropriate, I use this specification, although it is important to note that the results are invariant to specification.

Estimation Technique

Endogeneity problem. As discussed in Chapter 3, models of campaign spending may be susceptible to endogeneity problems. To the extent that one (or more) of the independent variables is endogenous, then the assumptions of ordinary least squares regression (OLS) are violated and the OLS estimates are both biased and inconsistent. In order to correct for this problem, an instrumental variable must be found for the endogenous regressor that is both correlated with the endogenous variable and uncorrelated with the error term.

Common practice in congressional elections is to use the incumbent's prior spending total as an instrument for current incumbent spending (Jacobson 1980, 1985; Green and Krasno 1988), and then estimate the models using two-stage least squares (2SLS). Thus, incumbent spending in 1976 is used as an instrument for incumbent spending in 1978. However, given that the terms of office for state supreme court justices are a minimum of 6 years, and that almost one quarter of all incumbents are facing voters for the first time, prior incumbent spending is an unsatisfactory instrument for elections to the high court bench. Looking at races for the U.S. Senate (a much better comparison to state supreme court races in terms of electoral constituency and term of office), Squire (1989b, 1992) simply used OLS regression. This choice is defensible because, in small samples, the 2SLS estimates are also biased (although they remain

consistent). Additionally, Partin (2002) used OLS to estimate the effects of spending on the vote total of gubernatorial candidates, and Jacobson (1996) has recently done so for congressional races. Further, as Jacobson has extensively documented (1980, 1985, 1997), the substantive findings about campaign spending hold regardless of whether the models are estimated by OLS or 2SLS.

While there are theoretical reasons to suspect that my measure of a prior close race sufficiently alleviates the potential endogeneity problem, endogeneity is a statistical problem as well as a theoretical one. Even if there is no reason to think a variable is endogenous, it may, in fact, be endogenous. In order to test for the endogeneity of incumbent spending, I need to find an appropriate instrumental variable.

Unlike congressional elections, not all state supreme court seats are equal. State supreme court seats vary on such things as salary, workload, staff, and term of office, to name a few. Consequently, becoming a member of the court in some states is more desirable than becoming a member of the court in others. The more valuable the seat, the more money one is likely to spend in retaining that seat. Thus, I use a measure of state supreme court professionalism developed by Brace and Hall (2001) as an instrument for incumbent spending. This measure is an index compiled by confirmatory factor analysis that includes the following factors: number of clerks, the difference between justice salary and average employee earnings, the number of authorized supreme court justices per 1000 residents, and the size of the docket. This index is correlated with incumbent spending, but should not independently affect the vote total for the incumbent. Hence, it is an appropriate instrument.

In order to test whether 2SLS is more efficient than OLS (and thus should be used), a Hausman test must be performed. The Hausman test compares the coefficients from both models (2SLS and OLS) and determines whether the difference in the coefficients is systematic. If the null hypothesis (that the difference between the two models is not systematic) cannot be rejected, then there is no endogeneity problem. In this case, incumbent spending can be said to be exogenous, and the model can be estimated using OLS. Otherwise, 2SLS is to be preferred, using state supreme court professionalism as an instrument for incumbent spending. Performing the Hausman test on the models indicates that there is no gain in efficiency from using 2SLS (these results can be seen in the Appendix, Table A.2). Hence, these models will be estimated using OLS regression.

Note that thus far the discussion has been centered only on instrumenting incumbent spending. That is, challenger spending (as well as spending by both candidates for open seats) has been assumed to be exogenous. There are some good reasons to suggest that challenger spending is indeed exogenous. First, challengers generally have difficulty raising money, and this difficulty is not likely to change much if their expected percentage of the vote rises (Green and Krasno 1988). Second, recall that in order for challenger expenditures to be endogenous, they must be correlated with the error term (that part of the incumbent's vote total not captured by the model). However,

To the extent that money and its trappings—a large staff, a new computer, a professional campaign manager—inspire additional financial backing, the causal process will be confined to the independent variable (CE) [challenger expenditures] itself. Only fund-raising that is based on information not contained in the independent variables will lead to biased estimates for challenger spending. (Green and Krasno 1988, 904)

The story for open seats is a little more difficult. The dependent variable for these races is the vote percentage for the winning candidate. If the expenditures by the winning candidate are endogenous, then this means we will likely overestimate the affects of spending of the vote total of the winner. Likewise, we are likely to underestimate the effects of the spending of the loser. While both candidates for open seats begin the campaign as non-incumbents, it is unknown how easy it is for these candidates to raise money. Given the spending totals seen in Chapter 4, it is possible that as the expected vote total rises, it is easier for the winning candidate to raise more money. To check for this, I used the state supreme court professionalism index as an instrument for winner spending, and performed a Hausman test, which indicates that OLS regression is appropriate (see Appendix, Table A.3).

In sum, the results of the Hausman tests confirm my theoretical argument that 2SLS is not necessary. For both incumbent-challenger races and open seat contests, I was unable to reject the null hypothesis of no systematic differences in the coefficients. That is, 2SLS is not more efficient than OLS. Thus, because of both theoretical and empirical reasons, I will estimate the models here using OLS regression.

Selection bias. In addition to the potential endogeneity problem, there is the recurring issue of the potential selection bias given the nature of the sample. Since the dependent variable (percentage of the vote) is only observed in contested races, if the process by which races are contested is nonrandom (which is likely; see Bonneau and Hall 2001), then omitting uncontested races could bias the coefficients and make the standard errors inefficient (as discussed in detail in Chapters 3 and 5).

To correct for the possible selection bias, the models are estimated using Heckman's two-step correction procedure. Just as I did in Chapter 5, I use Bonneau and Hall's (2001) model predicting supreme court contestation to model the process by which a supreme court races will be contested.⁵ The OLS results, without correcting for selection bias, are presented in the Appendix (Tables A.4-A.7). As one can see by comparing the tables, the same results generally obtain.

The Role of Money in State Supreme Court Elections

Table 6.2 shows the OLS results from the multivariate model of incumbent-challenger contests.

⁵ The variables included in the selection model can be found in Table 5.2.

Table 6.2: The Effects of Money on Votes, Incumbent-Challenger Contests

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	0.159	0.943	0.169	0.866
Log of Chall. Spending	-1.357	0.464	-2.926	0.003
Quality Chall.	-4.606	2.217	-2.078	0.038
Partisan Consonance	0.394	0.999	0.395	0.693
Age	-0.007	0.002	-3.347	0.001
Appointed First	-2.933	1.388	-2.112	0.035
Compete	-0.549	1.117	-0.492	0.623
Prior Close Race	-3.730	1.603	-2.327	0.020
Control of Court	0.446	1.346	0.331	0.740
Voting Population	0.001	0.000	2.609	0.009
Murder Rate	0.148	0.243	0.609	0.542
Tort Docket	0.111	0.075	1.485	0.138
1990	-3.527	1.486	-2.373	0.018
1992	-3.765	2.076	-1.814	0.070
1994	-2.727	2.601	-1.049	0.294
1996	-3.825	2.959	-1.292	0.196
1998	3.889	2.212	1.758	0.079
Constant	64.145	9.007	7.122	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations	=	392
Censored observations	=	265
Uncensored observations	=	127
Log likelihood	=	-624.354
χ^2	=	13.25
Prob > χ^2	=	0.039

Most relevant for the purposes here is the performance of the two spending variables. While the amount of money spent by the incumbent does not affect her percentage of the vote, the amount spent by the challenger does lead to a decrease in the percentage of the vote for the incumbent. This is as expected and is consistent with the existing congressional and state legislative literature. Challengers can increase their electoral support simply by spending more money. Specifically, a 1% increase in spending by challenger decreases the incumbent's percentage of the vote by 0.014%. In order to raise her level of electoral support 0.1%, a challenger would have to increase her spending by 7%. If a challenger spent \$100,000, she would need to spend \$107,000 to raise her percentage of the vote by 0.1%. This suggests that more spending, at least by challengers, serves to promote competition. The presence of a challenger with prior judicial experience also decreases the incumbent's percentage of the vote by over 4.5%. Thus, while campaign spending matters, so does prior judicial experience. The results also show that the age of the incumbent leads to more competitive elections, being initially appointed decreases the incumbent's electoral support by almost 3%, and that a prior close judicial race decreases the incumbent's percentage of the vote by almost 4%. Interestingly, neither partisan consonance nor partisan control of the court seems to affect competition, indicating that state supreme court elections may be insulated to some degree from the politics of the state.

The size of the voting age population is significant, indicating that the larger the size of the voting age population, the less competitive the race. This is not surprising, given that the larger the electoral constituency, the more money that a challenger would have to spend to effectively reach the electorate. Given the difficulties challengers have

in raising money (Green and Krasno 1988), it is easy to see how they would fare more poorly, other things being equal, in larger constituencies. Contrary to the results of Hall (2001a), the murder rate does not appear to be related to electoral competition.

Incumbents do not appear to be held accountable for issues of public safety in these elections. Finally, the percentage of the docket devoted to tort cases is also insignificant.

Contrary to expectations, elections for seats where the winner will spend a substantial portion of her time deciding tort cases are not more competitive than seats where the winner will spend significant amounts of time deciding other types of cases.

The story for open seats is somewhat different, as seen in Table 6.3.

Table 6.3: The Effects of Money on Votes, Open Seats

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Winner Spending	1.033	1.032	1.002	0.317
Log of Loser Spending	-1.708	0.479	-3.564	0.000
Quality Winner	2.290	1.753	1.306	0.192
Quality Loser	-0.848	2.825	-0.300	0.764
Partisan Consonance	-0.205	0.850	-0.241	0.810
Compete	-4.762	2.803	-1.699	0.089
Prior Close Race	2.444	3.768	0.649	0.517
Control of Court	0.226	1.802	0.125	0.900
Voting Population	0.000	0.000	0.850	0.395
Tort Docket	-0.047	0.103	-0.460	0.646
1990	2.817	4.201	0.671	0.502
1992	0.662	2.853	0.232	0.817
1994	0.663	1.818	0.365	0.715
1996	4.007	3.889	1.030	0.303
1998	-2.816	4.618	-0.610	0.542
Constant	59.284	18.470	3.210	0.001

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.87

Number of observations = 328
 Censored observations = 265
 Uncensored observations = 63
 Log likelihood = -333.284
 χ^2 = 3.71
 Prob > χ^2 = 0.716

The amount of money spent by the winner fails to achieve significance.

However, the amount spent by the loser is statistically significant and in the hypothesized direction. This suggests that the amount of money spent by the loser leads to a decrease in the winning candidate's percentage of the vote (and thus promotes competition). A 1% increase in campaign spending by the loser leads to a decrease of 0.017% in the winner's percentage of the vote. In order to raise her percentage of the vote by 0.1%, a challenger would need to increase her spending by 5.8%. Thus, if she had spent \$100,000, then she would need to spend \$105,800 to increase her level of support by 0.1%. The lack of significance for the spending by the winner is somewhat puzzling: why should campaign spending not affect the electoral support of winners? The most likely explanation is that both candidates in open seats begin the campaign on relatively equal footing. They both spend money to gain recognition, and spending increases each candidate's visibility equally. Thus, each additional dollar spent by the winner leads to an increase in her percentage of the vote, but each additional dollar spent by the loser leads to a decrease in the winner's percentage of the vote. If spending by the losing candidate costs the winner more votes than spending by the winning candidate gains her votes (which appears to be the case here), then campaign spending by the winner will appear to have no effect on how well she does, while campaign spending by her opponent will be significant.

Somewhat surprisingly, the prior judicial experience of the candidates does not matter in open seat races. Neither the quality of the winner nor of the loser significantly affects her percentage of the vote, nor does anything else, with the exception of competition in the primary. Having a competitive primary costs the winning candidate

almost 5% of the vote, other things being equal, although this result is only marginally significant and should be treated cautiously.

These results confirm the need to analyze incumbent-challenger races separately from open seat races. In addition to the theoretical differences between these two types of races, Tables 6.2 and 6.3 show how these races are empirically different as well.

The Role of Independent Expenditures

In Chapter 3, I discussed the problem of independent expenditures, and how failure to include the amount of money spent by independent groups could affect the results. In order to attempt to take this into account, I identified state supreme court elections that were singled out by the media as involving large amounts of independent expenditures (Goldberg, Holman, and Sanchez 2002). Thus, I estimate the models above omitting the following races, based on the Goldberg, Holman, and Sanchez (2002) study: 2000 Alabama, 2000 Michigan, 2000 Mississippi, and 2000 Ohio. The results with these races omitted are shown in Tables 6.4 and 6.5.

Table 6.4: The Effects of Money on Votes, Incumbent-Challenger Contests, with Independent Expenditure Races Omitted

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	0.110	1.023	0.107	0.915
Log of Chall. Spending	-1.206	0.469	-2.569	0.010
Quality Chall.	-5.332	2.075	-2.569	0.010
Partisan Consonance	0.117	1.088	0.108	0.914
Age	-0.006	0.002	-3.138	0.002
Appointed First	-3.483	1.596	-2.183	0.029
Compete	-0.595	1.212	-0.491	0.623
Prior Close Race	-4.876	2.112	-2.308	0.021
Control of Court	0.909	1.841	0.494	0.621
Voting Population	0.001	0.000	2.321	0.020
Murder Rate	0.260	0.311	0.838	0.402
Tort Docket	0.085	0.089	0.962	0.336
1990	-5.554	2.720	-2.042	0.041
1992	-5.109	3.266	-1.564	0.118
1994	-4.411	3.351	-1.316	0.188
1996	-5.341	3.481	-1.534	0.125
1998	2.517	3.042	0.827	0.408
Constant	65.356	10.299	6.346	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations	=	380
Censored observations	=	265
Uncensored observations	=	115
Log likelihood	=	-573.505
χ^2	=	27.90
Prob > χ^2	=	0.000

Table 6.5: The Effects of Money on Votes, Open Seats, with Independent Expenditure Races Omitted

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Winner Spending	0.936	1.131	0.827	0.408
Log of Loser Spending	-1.761	0.480	-3.672	0.000
Quality Winner	2.122	1.826	1.162	0.245
Quality Loser	-0.794	2.637	-0.301	0.763
Partisan Consonance	-0.559	0.815	-0.686	0.492
Compete	-4.948	2.395	-2.067	0.039
Prior Close Race	2.828	4.833	0.585	0.558
Control of Court	0.263	2.061	0.128	0.899
Voting Population	0.000	0.001	0.219	0.827
Tort Docket	-0.061	0.093	-0.651	0.515
1990	2.883	4.998	0.577	0.564
1992	1.323	3.087	0.429	0.668
1994	1.405	2.469	0.569	0.569
1996	4.274	5.178	0.825	0.409
1998	-2.848	5.939	-0.480	0.632
Constant	64.961	18.552	3.502	0.000

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.87

Number of observations	=	326
Censored observations	=	265
Uncensored observations	=	61
Log likelihood	=	-315.489
χ^2	=	3.55
Prob > χ^2	=	0.615

As can be seen from Tables 6.4 and 6.5, omitting those races that contained a lot of independent expenditures does not change the substantive conclusions at all.

Campaign spending by the challenger still increases her percentage of the vote; campaign spending by the loser of an open seat contest still increases her percentage of the vote.

Additionally, all of the other variables retain their significance (or insignificance). This provides evidence, albeit indirect, that independent expenditures are not affecting the results.

Conclusion

Consistent with the congressional elections literature, campaign spending by the challenger serves to decrease the percentage of the vote of the incumbent, while incumbents are not able to increase their electoral support by increasing their spending. For open seats, the percentage of the vote of the winner is decreased by campaign spending by the loser, but her own spending has no effect on her electoral support. These results hold despite alternative specifications and taking into account the potential effects of selection bias. This suggests that campaign spending by some types of candidates can promote electoral competition.

Of course, noticeably missing from these models are institutional variables. The models estimated and discussed here treat all state supreme court elections as alike, regardless of their partisan nature, electoral constituency, and term of office. Doing so yields results similar to those of congressional and state legislative elections. However, given both the theoretical importance of institutional arrangements, as well as the differential levels of spending and competition witnessed in Chapter 4, omitting these

variables leaves us with an incomplete understanding of state high court elections. I address this deficiency in Chapter 7.

CHAPTER 7

THE EFFECTS OF MONEY ON VOTES: INSTITUTIONAL MODEL

The evidence thus far provides some limited support for the claim that campaign spending can increase electoral competition. Spending by both challengers and the losers of open seats leads to more competitive elections. This is consistent with the congressional and state legislative literature. Further, this central result is invariant to model specification.

Yet, to stop here would be to paint an incomplete picture. The analysis in Chapter 6 treated all state supreme court elections the same. However, one of the most distinguishing characteristics of elections for state high court is that they vary on fundamental institutional characteristics such as type of ballot on which they are elected, electoral constituency, and term of office. In this chapter, I explore the role these institutional differences have on both electoral competition and the effects of campaign spending on how well candidates perform with the electorate.

Institutional Variables

The most fundamental institutional difference is the type of election. As has been noted earlier, some states elect their state supreme court justices on partisan ballots, while others do so on nonpartisan ballots. The only difference between these two types of elections is that the political party affiliation of the candidate is listed on partisan ballots and omitted on nonpartisan ballots. However, this difference can be significant. As we

have seen in Chapter 4, partisan elections are both more expensive and more competitive than nonpartisan elections, in the aggregate.

There are two different methods to take into account the partisan nature of the election. First, I could include a dummy variable in each model (incumbent-challenger and open seats) to denote the type of election. If this variable is significant, then we can conclude that the type of election has a significant effect on the vote total. Further, by interacting campaign spending with type of election, we can ascertain if the influence of campaign spending also varies by type of election.

A second possibility is to estimate partisan and nonpartisan elections separately. In addition to possessing the same characteristics as including a dummy variable, estimating these models separately allows one to assess the difference in the determinants of electoral competition as well as the differences in campaign spending between these types of races. Given the differences in competitiveness and campaign spending described in Chapter 4, as well as the results by Hall (2001a), there are good reasons to suspect that there may be differences in both the determinants of electoral competition and the efficacy of campaign spending between partisan and nonpartisan elections.

However, before estimating the models separately, one can test to see if the models are structurally different using the Chow test (Gujarati 1995). This procedure tests the entire set of parameters between two data sets—in this case, partisan and nonpartisan elections (Kennedy 1998). Both the partisan and nonpartisan models were estimated separately, as was a model that combined both types of elections. As the results from the Chow test indicate (Appendix, Table A.8), there is no statistical difference between the partisan and nonpartisan models. Consequently, I do not estimate

the models separately, and instead insert a dummy variable (*Partisan*) to take into account the nature of the race.

Besides the type of election, there are three other institutional variables that should affect both competition and campaign spending. As discussed earlier, not all supreme court candidates run in statewide elections. In Illinois, Kentucky, Louisiana, and Mississippi, candidates run in districts. Hall (2001a) found that candidates running nonpartisan district elections received over 18% less of the vote (although this result did not hold in partisan elections), suggesting that district elections may have different effects on competition in different selection systems.¹ This may also affect the influence of campaign spending on electoral competition. Specifically, campaign spending should be more effective in district-based elections compared to statewide elections (Dubois 1986a; Hogan and Hamm 1998; Reid 1999). Thus, I include a dummy variable to take into account the electoral constituency of the election (*District*).

The presence of a multi-member race should also affect electoral competition. Competition in multi-member districts has been found to be higher than in comparable single-member districts (Cox and Morgenstern 1995). Thus, I include a dummy variable to control for these situations (*MultiMember*). A word is in order about how vote totals and campaign spending are adjusted to account for multi-member districts. I adjust the percentage of the vote received using the method first used by Jewell (1982): I divide each candidate's percentage of the vote by the total number of votes in the district, and then multiply this result by the total number of seats in the district. This procedure has generally been recognized by state politics scholars (Tucker and Weber 1987; Weber,

¹ This was not found when an interaction term for district, partisan elections was included here. For this reason, along with the nature of the interaction terms to be included in the following sections, I do not include an interaction term for district, partisan elections in the analysis.

Tucker, and Brace 1991; Hall 2001a) as producing vote totals equivalent to the electoral support for candidates in single-member districts (Hall 2001a).

For campaign spending totals, I perform a procedure suggested by Moncrief (2001). I define the “challenger” as the last person to get elected. Here, since there are always only two seats at stake in state supreme court multi-member elections, the person with the second highest vote percentage is the key opponent because this person’s percentage of the vote is the minimum amount necessary to win election. Thus, for the highest vote-getter, the 2nd highest vote-getter is the “challenger.” For the second highest vote-getter, the “challenger” is the person who finished third, since this is the candidate the second highest vote-getter had to beat. This procedure best approximates the amount of money spent by a “challenger.”²

Finally, the term of office may affect the incumbent’s (or winner’s) percentage of the vote. Longer terms should be more attractive to candidates since there is increased job security (Bonneau and Hall 2001). Thus, there should be more competition for seats that have longer terms of office associated with them. To the extent that there is greater competition, the election should be closer. I expect that the longer the term of office (*Term*), the lower the incumbent’s (or winner’s) percentage of the vote will be.

In addition to these variables, the models estimated here contain the same variables used to estimate the models in Chapter 6 (see Table 6.1 for these variables and their measurement). For convenience, Table 7.1 provides a list of the institutional variables and their exact measurement.

² Since multi-member races are different from single-member races, and because my measures of percentage of the vote received and campaign spending are approximations, I also estimated the models omitting multi-member races. There was no change in the substantive conclusions.

Table 7.1: Additional Variable Descriptions for a Model of Electoral Competition in State Supreme Court Elections

Variable		Variable Description
Vote	=	percentage of the vote in the general election for the incumbent (or winner for open seats)
<i>Institutional Factors</i>		
Partisan	=	1 if the election was held in a partisan state 0 otherwise
District	=	1 if the election was held in a district 0 otherwise
MultiMember	=	1 if the election is in a multimember district 0 otherwise
Term	=	length (in years) of the term of office

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Estimation Technique

Endogeneity. The potential endogeneity problem that existed in Chapter 6 is also present for the models estimated here. In order to check for endogeneity, I used the state supreme court professionalism index discussed in Chapter 6 as an instrument for incumbent and winner spending, and performed a Hausman test. The results of the Hausman tests (presented in the Appendix, Tables A.9 and A.10) indicate that OLS regression is appropriate for both incumbent-challenger races and open seat contests, and thus this technique is used to estimate the models here.

Selection bias. Also present is the potential selection bias since only contested races are analyzed. As in Chapters 5 and 6, I model the process by which state supreme court races are contested using the model developed by Bonneau and Hall (2001). While I present and discuss the results from the Heckman procedure, the results from the OLS regression are presented in the Appendix (Table A.11).

The Role of Money and Institutions in State Supreme Court Elections

Table 7.2 shows the OLS results from the multivariate model of incumbent-challenger contests.

Table 7.2: The Effects of Money on Votes, Incumbent-Challenger Contests

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	-0.178	0.891	-0.200	0.841
Log of Chall. Spending	-1.515	0.494	-3.065	0.002
Quality Chall.	-3.867	2.156	-1.794	0.073
Partisan Consonance	-0.380	1.019	-0.373	0.709
Age	-0.006	0.002	-3.014	0.003
Appointed First	-3.294	1.090	-3.022	0.003
Compete	1.637	1.024	1.599	0.110
Prior Close Race	-4.638	1.437	-3.227	0.001
Control of Court	0.387	1.685	0.230	0.818
Voting Population	0.000	0.000	2.068	0.039
Murder Rate	0.342	0.308	1.111	0.267
Tort Docket	0.169	0.057	2.937	0.003
Partisan	-4.425	2.486	-1.780	0.075
District	-6.575	3.058	-2.150	0.032
MultiMember	-0.274	2.734	-0.100	0.920
Term	2.879	0.785	3.668	0.000
1990	-4.428	1.813	-2.443	0.015
1992	-4.546	2.189	-2.077	0.038
1994	-3.035	2.869	-1.058	0.290
1996	-3.650	3.072	-1.188	0.235
1998	4.061	2.135	1.902	0.057
Constant	55.532	8.933	6.216	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations = 392
 Censored observations = 265
 Uncensored observations = 127
 Log likelihood = -618.488
 χ^2 (6) = 19.28
 Prob > χ^2 = 0.004

The results for incumbent-challenger contests with the institutional variables included generally echo those obtained for all incumbent-challenger omitting such variables (Table 6.2). Campaign spending by the challenger has a significant negative effect on the percentage of the vote received by the incumbent; the more the challenger spends, the better she does (and the worse the incumbent does). For every 1% increase in challenger spending, the percentage of vote received by the incumbent will decrease by over 0.015%. To increase her level of electoral support by 0.1%, the challenger must spend an additional 6.7%. If she has already spent \$100,000, then she will need to spend \$106,700 to increase her percentage of the vote by 0.1%, other things being equal. Additionally, incumbent spending remains insignificant.

The challenger also performs almost 4% better if she has prior judicial experience, and over 3% better if the incumbent was initially appointed. Further, the older an incumbent gets, the worse she performs with the electorate. A prior competitive race also leads to more competition suggesting that past state supreme court elections affect current races. Specifically, if there was a competitive race in the most recent state supreme court election, an incumbent will receive 4.6% less of the vote, other things being equal. Electoral competition is unrelated to whether the incumbent faced primary competition, and if partisan control of the court is at stake. Also of note is the fact that partisan consonance is insignificant. This suggests that incumbent-challenger races for the state high court bench are somewhat insulated from the general political climate of the state. However, these races are not insulated from the type of work performed on the court. The higher the proportion of the docket occupied by tort cases, the better the incumbent does. This is contrary to what was hypothesized. A likely reason for this is

that the relevant interests (trial lawyers or corporations) devote significant resources to protecting incumbents sympathetic to their cause. While they also may support challengers, they first want to take care of the justices already on the bench. If this is the case, then we would expect them to contribute heavily to incumbent's reelection campaigns, and thus strengthen the incumbency advantage. Thus, while the percentage of the docket occupied by tort cases contributes to the level of campaign spending in the race (Chapter 5), it does not contribute to electoral competition. Indeed, it even discourages it.

Three of the four institutional variables attain significance. First, other things being equal, there is more competition in partisan races. Incumbents will receive 4.4% less of the vote in partisan races compared to nonpartisan races, other things being equal. This is not surprising, given that we saw in Chapter 4 how these races were more competitive than nonpartisan races, in general. District incumbent-challenger elections are more competitive than their statewide counterparts. Other things being equal, an incumbent will perform over 6.5% worse in a district-based election as opposed to statewide election.³ Electoral competition is unrelated to whether the election occurred in a multi-member district, but is related to the term of office. Somewhat surprisingly, longer terms of office lead to less electoral competition (incumbents receive a higher percentage of the vote, other things being equal). This may be because 90% of the elections in the dataset are for 6- and 8-year terms of office. Nonetheless, this finding is contrary to expectations.

³ Hall (2001a) found this for nonpartisan district elections but not for partisan district elections.

Comparing Tables 6.2 and 7.2 shows the need to include institutional variables in studies of judicial elections. Table 7.3 compares the significance of the coefficients displayed in Tables 6.2 and 7.2.

Table 7.3: Comparison of Non-Institutional and Institutional Models of Incumbent-Challenger Contests

Variable	Table 6.2	Table 7.2
Log of Incumbent Spending	NS	NS
Log of Challenger Spending	-	-
Quality Challenger	-	-
Partisan Consonance	NS	NS
Age	-	-
Appointed First	-	-
Compete	NS	NS
Prior Close Race	-	-
Control of Court	NS	NS
Voting Population	+	+
Murder Rate	NS	NS
Tort Docket	NS	+
Partisan		-
District		-
MultiMember		NS
Term		+
1990	-	NS
1992	-	NS
1994	NS	NS
1996	NS	NS
1998	-	NS

+ = significant in a positive direction
 - = significant in a negative direction
 NS = not significant

Table 7.3 shows quite clearly the erroneous inferences that can be made by omitting institutional variables. While all of the variables that were significant in Table 6.2 remain significant in Table 7.2, the percentage of the docket occupied by tort cases becomes statistically significant in the institutional specification. Additionally, electoral competition is affected by whether the race is partisan, in a district, and for a longer term of office. Table 7.3 is clear and convincing evidence of the importance of including institutional variables.

The results for open seat races are shown in Table 7.4.⁴

⁴ I attempted to estimate the Heckman model for the open seat races. However, since there are only 63 races, and given the number of independent variables in the model, I was unable to do so in all cases, especially for the interactive models that follow. Hence, in order to keep the results comparable, I estimate the open seat models using OLS regression and do not correct for the potential selection bias. I did test for selection bias, however, using an alternative procedure. First, I ran the selection model on the open seat races. I then took the estimated probability from this analysis and included it as an independent variable in the OLS regression. If there was selection bias, then this variable will be significant and will also be controlling for the bias. If the variable is insignificant, then there was no bias (Brace 2002). The results from the model indicate that there was no selection bias, and thus I report the results from the OLS analysis.

Table 7.4: The Effects of Money on Votes, Open Seats

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	0.130	1.567	0.083	0.935
Log of Loser Spending	-1.928	0.486	-3.969	0.001
Quality Winner	0.679	2.184	0.311	0.760
Quality Loser	1.606	3.450	0.466	0.648
Partisan Consonance	-0.702	0.998	-0.704	0.492
Compete	-2.778	2.603	-1.067	0.302
Prior Close Race	5.223	4.705	1.110	0.283
Control of Court	-0.022	2.275	-0.009	0.993
Voting Population	-0.000	0.001	-0.182	0.858
Tort Docket	0.004	0.107	0.034	0.974
Partisan	-2.429	2.365	-1.027	0.320
District	0.579	3.074	0.188	0.853
MultiMember	12.584	6.237	2.018	0.061
Term	-0.041	0.698	-0.059	0.954
1990	2.270	4.894	0.464	0.649
1992	1.239	3.056	0.405	0.691
1994	0.049	3.167	0.015	0.988
1996	2.730	5.539	0.493	0.629
1998	-2.024	4.696	-0.431	0.672
Constant	75.703	17.924	4.223	0.001

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 55.87

N = 63

F (15, 16) = 30.66

Prob > F = 0.000

 $R^2 = 0.3863$

Root MSE = 8.997

Just as in Table 6.3, the loser spending variable remains significant, indicating that campaign spending by the losers of open seats costs the winner electoral support. For every 1% increase in spending by the losing candidate, the winner's percentage of the vote decreases by almost 0.02%. A challenger would need to spend an additional 5% to raise her percentage of the vote 0.1%. Additionally, running in a multi-member district increases the percentage of the vote received by the winner. Winners receive over 12.5% more of the vote when they run in multi-member districts. The quality of the candidates, degree of partisan consonance, state supreme court electoral context, presence of primary competition, partisan control of the court, and size of the voting age population are all insignificant. Further, with the exception of multi-member districts discussed above, none of the institutional differences attain significance. Neither the type of election, electoral constituency, or term of office is significantly related to competition for open seat state supreme court races.

In Table 7.5, the results from the non-institutional and the institutional models of open seat races are compared.

Table 7.5: Comparison of Non-Institutional and Institutional Models of Open Seat Contests

Variable	Table 6.3	Table 7.4
Log of Winner Spending	NS	NS
Log of Loser Spending	-	-
Quality Winner	NS	NS
Quality Loser	NS	NS
Partisan Consonance	NS	NS
Compete	-	NS
Prior Close Race	NS	NS
Control of Court	NS	NS
Voting Population	NS	NS
Tort Docket	NS	NS
Partisan		NS
District		NS
MultiMember		+
Term		NS
1990	NS	NS
1992	NS	NS
1994	NS	NS
1996	NS	NS
1998	NS	NS

+ = significant in a positive direction
 - = significant in a negative direction
 NS = not significant

For the most part, the results are the same between the two models. Loser spending is significant in both models. However, the presence of primary competition, significant in the non-institutional model, loses its significance when institutional variables are included. Additionally, the presence of a multi-member race also affects electoral competition. Thus, as for incumbent-challenger contests, institutional variables need to be included in models of state supreme court elections in order to fully understand the dynamics of these elections.

The Role of Money and Institutions in State Supreme Court Elections: Selection System, Electoral Constituency, and Term of Office

Now that we have seen how campaign spending affects electoral competition, the next logical inquiry is to ascertain whether the efficacy of campaign spending varies depending on the institutional arrangements of the states. That is, are the effects of campaign spending different in partisan elections versus nonpartisan elections, district versus statewide elections, and single-member versus multi-member elections? Tables 7.6, 7.7, 7.8, and 7.9 show the results of the interactive models for incumbent-challenger races.

Table 7.6: The Effects of Money on Votes, Incumbent-Challenger Races with Selection System Interaction Terms

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	0.104	1.386	0.075	0.940
Log of Chall. Spending	-0.920	0.368	-2.500	0.012
Log of Incum. Spen. x Part.	-0.327	1.478	-0.221	0.825
Log of Chall. Spen. x Part.	-1.253	0.317	-3.952	0.000
Quality Chall.	-3.465	2.020	-1.715	0.086
Partisan Consonance	0.056	1.072	0.052	0.959
Age	-0.004	0.001	-3.112	0.002
Appointed First	-3.288	1.056	-3.113	0.002
Compete	2.384	1.034	2.306	0.021
Prior Close Race	-4.499	1.484	-3.031	0.002
Control of Court	0.994	1.553	0.640	0.522
Voting Population	0.000	0.000	1.187	0.235
Murder Rate	0.206	0.312	0.660	0.509
Tort Docket	0.175	0.056	3.124	0.002
Partisan	13.591	16.686	0.815	0.415
District	-6.360	3.172	-2.005	0.045
MultiMember	-0.065	2.972	-0.022	0.983
Term	2.467	0.775	3.183	0.001
1990	-2.756	1.984	-1.389	0.165
1992	-3.300	1.938	-1.703	0.089
1994	-1.800	2.918	-0.617	0.537
1996	-2.262	3.036	-0.745	0.456
1998	4.338	2.157	2.011	0.044
Constant	48.360	15.622	3.096	0.002

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations	=	392
Censored observations	=	265
Uncensored observations	=	127
Log likelihood	=	-612.341
χ^2 (6)	=	15.15
Prob > χ^2	=	0.019

Table 7.7: The Effects of Money on Votes, Incumbent-Challenger Races with District Interaction Terms

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	-0.202	0.887	-0.227	0.820
Log of Chall. Spending	-1.488	0.508	-2.929	0.003
Log of Incum. Spen. x Dist.	1.803	4.498	0.401	0.689
Log of Chall. Spen. x Dist.	-1.492	1.611	-0.926	0.355
Quality Chall.	-3.753	2.072	-1.811	0.070
Partisan Consonance	-0.434	1.042	-0.416	0.677
Age	-0.006	0.002	-3.062	0.002
Appointed First	-3.177	0.987	-3.219	0.001
Compete	1.758	1.097	1.603	0.109
Prior Close Race	-4.847	1.554	-3.118	0.002
Control of Court	0.294	1.656	0.177	0.859
Voting Population	0.000	0.000	2.044	0.041
Murder Rate	0.338	0.297	1.139	0.255
Tort Docket	0.164	0.061	2.676	0.007
Partisan	-4.450	2.455	-1.812	0.070
District	-11.397	39.961	-0.285	0.775
MultiMember	0.076	2.600	0.029	0.977
Term	2.910	0.794	3.666	0.000
1990	-4.940	2.009	-2.459	0.014
1992	-4.754	2.163	-2.198	0.028
1994	-3.330	3.038	-1.096	0.273
1996	-3.878	3.233	-1.200	0.230
1998	3.830	2.266	1.690	0.091
Constant	56.120	9.103	6.165	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations = 392

Censored observations = 265

Uncensored observations = 127

Log likelihood = -618.112

χ^2 (6) = 20.44

Prob > χ^2 = 0.002

Table 7.8: The Effects of Money on Votes, Incumbent-Challenger Races with Multi-Member Interaction Terms

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	-0.558	0.933	-0.598	0.550
Log of Chall. Spending	-1.469	0.505	-2.909	0.004
Log of Incum. Spen. x Mult.	12.081	6.056	1.995	0.046
Log of Chall. Spen. x Mult.	0.962	5.475	0.176	0.861
Quality Chall.	-4.052	2.217	-1.828	0.068
Partisan Consonance	-0.293	1.073	-0.273	0.785
Age	-0.006	0.002	-3.068	0.002
Appointed First	-3.310	1.085	-3.051	0.002
Compete	1.468	1.006	1.460	0.144
Prior Close Race	-4.487	1.452	-3.090	0.002
Control of Court	0.176	1.703	0.103	0.918
Voting Population	0.001	0.000	2.210	0.027
Murder Rate	0.451	0.301	1.495	0.135
Tort Docket	0.194	0.056	3.465	0.001
Partisan	-5.481	2.518	-2.177	0.030
District	-6.385	3.255	-1.961	0.050
MultiMember	-165.843	126.471	-1.311	0.190
Term	2.742	0.760	3.609	0.000
1990	-4.284	1.959	-2.187	0.029
1992	-4.690	2.294	-2.044	0.041
1994	-3.255	3.006	-1.083	0.279
1996	-3.365	3.126	-1.077	0.282
1998	4.690	2.149	2.183	0.029
Constant	59.344	9.650	6.149	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations = 392

Censored observations = 265

Uncensored observations = 127

Log likelihood = -617.305

χ^2 (6) = 26.28

Prob > χ^2 = 0.000

Table 7.9: The Effects of Money on Votes, Incumbent-Challenger Races with Term Interaction Terms

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	-6.214	3781	-1.644	0.100
Log of Chall. Spending	7.061	3.720	1.898	0.058
Log of Incum. Spen. x Term	1.020	0.566	1.801	0.072
Log of Chall. Spen. x Term	-1.421	0.572	-2.484	0.013
Quality Chall.	-3.293	1.975	-1.667	0.095
Partisan Consonance	-0.583	0.967	-0.603	0.546
Age	-0.006	0.002	-3.180	0.001
Appointed First	-2.529	1.033	-2.450	0.014
Compete	2.222	1.066	2.084	0.037
Prior Close Race	-4.535	1.572	-2.884	0.004
Control of Court	-0.492	1.482	-0.332	0.740
Voting Population	0.001	0.000	2.301	0.021
Murder Rate	0.479	0.317	1.514	0.130
Tort Docket	0.180	0.060	3.021	0.003
Partisan	-6.222	2.990	-2.081	0.037
District	-7.209	4.027	-1.790	0.073
MultiMember	-0.101	2.392	-0.042	0.966
Term	7.285	6.399	1.138	0.255
1990	-5.818	2.121	-2.743	0.006
1992	-5.806	2.348	-2.473	0.013
1994	-4.283	3.042	-1.408	0.159
1996	-4.369	3.162	-1.382	0.167
1998	4.281	2.239	1.912	0.056
Constant	27.884	41.957	0.665	0.506

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

Number of observations = 392
Censored observations = 265
Uncensored observations = 127
Log likelihood = -615.045
 χ^2 (6) = 21.12
Prob > χ^2 = 0.002

Table 7.6 indicates that campaign spending by the challenger serves to promote electoral competition regardless of whether the race is partisan or nonpartisan. However, it has more of an effect in nonpartisan races. An additional 1% increase in spending by the challenger in nonpartisan elections leads to a decrease of 0.013% in the incumbent's percentage of the vote; in partisan elections, the same increase in spending corresponds to a 0.009% decrease in the incumbent's electoral support. To increase her level of electoral support 0.1%, a challenger in a nonpartisan election would need to increase her spending 7.7%, while she would need to raise her level of spending by 11.1% in partisan elections. Table 7.7 indicates the importance of including a multiplicative term that takes into account whether the election occurs in a district or statewide. The results indicate that the results for challenger spending discussed in Table 7.2 only apply to statewide elections. Specifically, a 1% increase in challenger spending corresponds to a 0.014% decrease in the incumbent's level of electoral support in statewide elections. If a challenger spent \$100,000, she would need to spend \$107,000 to increase her percentage of the vote 0.1% (a 7% increase in spending). Indeed, campaign spending has no effect on competition in district-based elections, regardless of which candidate is spending the money. This may be because there are other ways for a candidate to publicize her candidacy (such as going door-to-door or meeting people at shopping centers) without spending money, since districts are more geographically compact.

In Table 7.8 we see that challenger spending is only effective at promoting competition in single-member districts. An additional 1% of spending by the challenger will cost the incumbent 0.015% of her percentage of the vote. This means the challenger would have to increase her spending by 6.7% to increase her level of electoral support by

6.7%. Curiously, incumbent spending serves to decrease competition in multi-member districts, but not in single-member districts. Incumbents running in multi-member districts can increase their percentage of the vote by 0.12% simply by spending an additional 1%. To increase her electoral support by 0.1%, the incumbent only has to spend an additional 0.8%. This seems to indicate that when more than one seat is at stake, incumbents can increase their level of electoral support simply by spending more money. One reason for this might be that since there are several candidates vying for a limited number of seats, incumbents need to spend money to make themselves stand out from the other candidates. Reminding people which candidate is the incumbent serves to distinguish the incumbent from every other candidate, and thus provides her with an electoral advantage.

In Table 7.9, we see the results when campaign spending is interacted with the term of office. Interpreting the effects of term of office on spending is not straightforward. Interpreting interaction terms with interval-level data requires one to determine the partial effect of the variables on the dependent variable (Friedrich 1982; Wooldridge 2000). For example, suppose that the model is

$$Vote\ total = \beta_0 + \beta_1 spending + \beta_2 term + \beta_3 spending * term + u$$

the partial effect of *spending* on *vote total* (holding all other variables constant) would be $\beta_1 + \beta_3 term$. By substituting interesting values of term into the equation, we can ascertain the effects of spending, conditional on the term of office, on vote total. Then, in order to test for statistical significance, we need to substitute $(term - X) * spending$ for the interaction term, and re-run the regression, where X is the relevant value of term

(Wooldridge 2000). In Table 7.10, the effects of different terms of office on campaign spending are displayed.

Table 7.10: The Effects of Term Length on Spending, Incumbent-Challenger Contests

Term Length	Incumbent Spending	Challenger Spending
6	-0.095 (0.940)	-1.465*** (0.492)
8	1.945 (1.243)	-4.307*** (0.492)
10	3.984* (2.185)	-7.149*** (2.065)
12	6.024* (3.251)	-9.990*** (3.194)

*** = $p < 0.01$
 ** = $p < 0.05$
 * = $p < 0.10$

The interpretation of these coefficients is as follows: “At a term length of X years, campaign spending by the (incumbent/challenger) has a statistically (significant/insignificant) impact on the percentage of the vote received by the incumbent.” We can see that challenger spending promotes competition regardless of the term of office at stake. Further, the longer the term of office, the greater the impact challenger spending has on promoting electoral competition. For a six-year term, a 1% increase in challenger spending leads to a 0.014% decrease in the incumbent’s percentage of the vote, other things being equal. This same increase in spending leads to a 0.043% decrease for a 8-year term of office, 0.071% for a 10-year term, and 0.099% for a 12-year term of office. Thus, to increase her percentage of the vote by 0.1%, a challenger who has spent \$100,000 will need to spend \$107,000 for a six-year term, \$102,300 for an eight-year term, \$101,400 for a ten-year term, and only \$101,010 for a twelve-year term. The longer the term, the more effective the campaign spending of the challenger.

Incumbent spending seems to be significant only when longer terms of office are at stake, and even then it is only marginally the case. It is also important to note that when one looks at the relative ability of the incumbent to increase her electoral support, it is clear that challenger spending is still more effective. For 8-year terms of office, a 1% increase in incumbent spending increases her percentage of the vote by 0.04%, while the same 1% of additional spending by the challenger decreases the incumbent’s electoral support by 0.071%. Further, since incumbents generally spend more money than challengers (see Chapter 4), an additional 1% of challenger spending is, in general, much less actual spending than an additional 1% of incumbent spending. Taking the average amount of spending for both incumbents and challengers from Chapter 4 (Table 4.8) in

the State of Washington illustrates this point nicely. An additional 1% of spending by an incumbent in Washington is \$803.29 ($\$80,329 \times 0.01$), and this would correspond to a 0.04% increase in her level of electoral support. However, for a challenger to decrease the incumbent's percentage of the vote by 0.071%, she would only have to spend \$467.15 ($\$46,715 \times 0.01$). Thus, while incumbent spending is marginally significant when longer terms of office are stake, we should not make too much of this result.

Now, we turn to open seat races. Tables 7.11, 7.12, 7.13, and 7.14 display the results from the interactive models.

Table 7.11: The Effects of Money on Votes, Open Seats with Selection System
Interaction Terms

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	-3.133	2.344	-1.337	0.200
Log of Loser Spending	-1.919	1.236	-1.553	0.140
Log of Winner Spen. x Part.	4.292	2.645	1.623	0.124
Log of Loser Spen. x Part.	-0.237	1.312	-0.181	0.859
Quality Winner	0.615	2.402	0.256	0.801
Quality Loser	2.296	3.961	0.580	0.570
Partisan Consonance	-0.489	1.326	-0.369	0.717
Compete	-3.044	3.433	-0.887	0.388
Prior Close Race	6.540	4.953	1.320	0.205
Control of Court	-0.109	1.929	-0.057	0.956
Voting Population	-0.000	0.001	-0.070	0.945
Tort Docket	-0.042	0.107	-0.394	0.699
Partisan	-53.051	36.251	-1.463	0.163
District	0.797	2.969	0.268	0.792
MultiMember	11.009	6.126	1.797	0.091
Term	0.287	0.671	0.427	0.675
1990	1.686	4.766	0.354	0.699
1992	0.301	2.680	0.112	0.912
1994	-0.481	3.377	-0.142	0.889
1996	2.645	5.749	0.460	0.652
1998	-3.191	4.958	-0.644	0.529
Constant	113.793	33.764	3.370	0.004

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.87

N = 63

F (15, 16) = 27.97

Prob > F = 0.0000

R² = 0.4125

Root MSE = 9.015

Table 7.12: The Effects of Money on Votes, Open Seats with District Interaction Terms

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	-1.832	1.370	-1.338	0.200
Log of Loser Spending	-2.049	0.441	-4.646	0.000
Log of Winner Spen. x Dist.	5.713	2.099	2.722	0.015
Log of Loser Spen. x Dist.	3.881	1.364	2.845	0.012
Quality Winner	3.406	2.122	1.605	0.128
Quality Loser	1.336	3.300	0.405	0.691
Partisan Consonance	-1.384	1.385	-0.999	0.333
Compete	-2.330	3.300	-0.706	0.490
Prior Close Race	5.228	4.013	1.303	0.211
Control of Court	2.029	1.904	1.065	0.303
Voting Population	-0.000	0.000	-0.418	0.682
Tort Docket	0.089	0.088	1.007	0.329
Partisan	-1.836	1.855	-0.990	0.337
District	-118.139	23.006	-5.135	0.000
MultiMember	12.451	5.378	2.315	0.034
Term	0.536	0.540	0.993	0.336
1990	4.433	4.043	1.096	0.289
1992	3.927	5.532	0.710	0.488
1994	1.056	3.563	0.297	0.771
1996	0.179	4.727	0.038	0.970
1998	-2.211	4.558	-0.485	0.634
Constant	92.874	12.406	7.486	0.000

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.87

N = 63

F (15, 16) = 99.79

Prob > F = 0.0000

 $R^2 = 0.5149$

Root MSE = 8.192

Table 7.13: The Effects of Money on Votes, Open Seats with Multi-Member Interaction Terms

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	0.994	1.783	0.558	0.585
Log of Loser Spending	-1.891	0.530	-3.568	0.003
Log of Winner Spen. x Mult.	-15.760	16.446	-0.958	0.352
Log of Loser Spen. x Mult.	6.269	14.434	0.434	0.670
Quality Winner	1.436	2.074	0.692	0.499
Quality Loser	1.014	3.496	0.290	0.776
Partisan Consonance	-1.027	1.134	-0.905	0.379
Compete	-2.357	2.992	-0.788	0.442
Prior Close Race	2.967	4.010	0.740	0.470
Control of Court	-1.058	2.406	-0.440	0.666
Voting Population	0.000	0.000	0.487	0.633
Tort Docket	0.005	0.095	0.050	0.960
Partisan	-2.773	2.534	-1.094	0.290
District	2.339	3.398	0.688	0.501
MultiMember	143.083	85.546	1.673	0.114
Term	-0.349	0.832	-0.419	0.681
1990	2.658	4.927	0.539	0.597
1992	1.553	2.952	0.526	0.606
1994	0.517	3.000	0.172	0.865
1996	4.411	5.304	0.832	0.418
1998	-0.720	4.383	-0.164	0.872
Constant	66.229	21.500	3.080	0.007

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.87

N = 63

F (15, 16) = 61.56

Prob > F = 0.0000

R² = 0.4133

Root MSE = 9.001

Table 7.14: The Effects of Money on Votes, Open Seats with Term Interaction Terms

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	-9.233	4.215	-2.191	0.044
Log of Loser Spending	-4.449	1.727	-2.577	0.020
Log of Winner Spn. x Term	1.201	0.481	2.499	0.024
Log of Loser Spn. x Term	0.410	0.268	1.531	0.145
Quality Winner	1.753	1.928	0.909	0.377
Quality Loser	1.070	3.569	0.300	0.768
Partisan Consonance	-0.727	1.089	-0.668	0.514
Compete	-2.891	3.027	-0.955	0.354
Prior Close Race	6.244	4.197	1.488	0.156
Control of Court	1.657	2.070	0.801	0.435
Voting Population	-0.000	0.001	-0.843	0.412
Tort Docket	0.080	0.069	1.151	0.266
Partisan	-0.748	2.454	-0.305	0.764
District	-0.055	2.635	-0.021	0.984
MultiMember	8.131	5.846	1.391	0.183
Term	-20.076	5.627	-3.568	0.003
1990	3.326	4.640	0.717	0.484
1992	1.912	3.787	0.505	0.620
1994	0.887	3.356	0.264	0.795
1996	1.795	5.096	0.352	0.729
1998	-4.483	5.198	-0.862	0.401
Constant	220.766	42.966	5.138	0.000

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.87

N = 63

F (15, 16) = 38.38

Prob > F = 0.0000

 $R^2 = 0.4472$

Root MSE = 8.745

The results for open seats, like those for incumbent-challenger contests, show that institutions can affect the influence of campaign spending on the electoral support of the winner. In Table 7.11, we see that the influence of campaign spending on the outcome of open seat elections is not contingent on selection system. Indeed, campaign spending does not appear to be significant at all (although a likely reason for this is the collinearity introduced by the interaction term; campaign spending by the losing candidate—Table 7.4—likely still matters).

Table 7.12 displays the results for district-based elections interactive model. Competition is promoted by campaign spending by the loser in statewide elections. A 1% increase in campaign spending by the loser leads to a 0.02% decrease in the winner's percentage of the vote, other things being equal. The losing candidate can increase her percentage of the vote by 0.1% if she spends 5% more. However, this effect is reversed in district-based elections. Indeed, campaign spending by either the winner or the loser will serve to decrease electoral competition in district-based elections. A 1% increase in the spending by the winner increases her level of electoral support by 0.057%, while the same increase in spending by the loser increases the winner's percentage of the vote by 0.039%. This result is contrary with what was found for incumbent-challenger contests: campaign spending by neither the incumbent nor the challenger significantly affected the incumbent's percentage of the vote, for both partisan and nonpartisan elections). This is further evidence that open seat races are governed by different dynamics than incumbent-challenger contests.

In Table 7.13, we see that campaign spending by the loser in single-member districts significantly decreases the electoral support of the winner, and thus promotes

competition. Specifically, the winner's percentage of vote can be reduced by 0.019% if the loser increases her spending by 1%. Likewise, the winner's percentage of the vote can be reduced by 0.1% if the loser increases her spending by 5.3%. Campaign spending has no affect on competition in multi-member elections.

Table 7.14 looks at the term of office. The effects term length has on campaign spending are shown in Table 7.15.

Table 7.15: The Effects of Term Length on Spending, Open Seat Races

Term Length	Winner Spending	Loser Spending
6	-2.028 (1.564)	-1.998*** (0.388)
8	0.374 (1.017)	-1.168* (0.596)
10	2.776*** (1.213)	-0.347 (1.064)
12	5.177*** (1.938)	0.473 (1.577)

*** = $p < 0.01$

** = $p < 0.05$

* = $p < 0.10$

The results presented in Table 7.15 are interesting. While campaign spending by the losing candidates promotes competition with shorter terms of office (six and eight years), campaign spending by the winner serves to decrease competition when longer terms of office are at stake (ten and twelve years). This could be a result of the electoral dynamics in the state with longer terms of office (Illinois, Louisiana, Pennsylvania, and Wisconsin), or it could be the case that spending retards competition when longer terms of office are at stake (although there is no theoretical reason to think this is the case).

Overall, the general lesson from these models is clear: institutions affect how campaign spending can influence electoral support. Some institutional arrangements promote competition (single-member districts) while others retard it. And, under other institutional arrangements (district-based elections, longer terms of office), the effects depend upon the type of race.

The Role of Independent Expenditures

Tables 7.16 and 7.17 show the results of the models estimated in Tables 7.2 and 7.4, omitting the races that contained large amounts of independent expenditures.

Table 7.16: The Effects of Money on Votes, Incumbent-Challenger Contests, with Independent Expenditure Races Omitted

Variable	Coefficient	Robust Std. Error	z	P > z
Log of Incum. Spending	-0.191	0.999	-0.191	0.848
Log of Chall. Spending	-1.347	0.530	-2.543	0.011
Quality Chall.	-4.901	2.045	-2.396	0.017
Partisan Consonance	-0.437	1.157	-0.377	0.706
Age	-0.006	0.002	-2.817	0.005
Appointed First	-3.975	1.372	-2.898	0.004
Compete	1.434	1.080	1.327	0.184
Prior Close Race	-5.551	1.950	-2.847	0.004
Control of Court	0.618	2.135	0.289	0.772
Voting Population	0.001	0.000	2.239	0.017
Murder Rate	0.397	0.374	1.061	0.289
Tort Docket	0.144	0.070	2.066	0.039
Partisan	-5.564	3.521	-1.580	0.114
District	-4.374	4.039	-1.083	0.279
MultiMember	-0.986	3.049	-0.323	0.746
Term	3.019	0.886	3.409	0.001
1990	-6.019	2.592	-2.322	0.020
1992	-5.427	3.286	-1.652	0.099
1994	-4.149	3.466	-1.197	0.231
1996	-4.928	3.434	-1.435	0.151
1998	2.887	2.560	1.128	0.259
Constant	55.689	10.593	5.257	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 54.94

Number of observations	=	380
Censored observations	=	265
Uncensored observations	=	115
Log likelihood	=	-568.652
χ^2 (6)	=	17.34
Prob > χ^2	=	0.008

Table 7.17: The Effects of Money on Votes, Open Seats, with Independent Expenditure Races Omitted

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	0.119	1.533	0.078	0.939
Log of Loser Spending	-1.928	0.490	-3.933	0.001
Quality Winner	0.671	2.226	0.302	0.767
Quality Loser	1.557	3.400	0.458	0.653
Partisan Consonance	-0.685	1.071	-0.640	0.531
Compete	-2.816	2.684	-1.049	0.310
Prior Close Race	5.168	5.274	0.980	0.342
Control of Court	-0.057	2.424	-0.024	0.981
Voting Population	-0.000	0.001	-0.114	0.910
Tort Docket	0.003	0.108	0.024	0.982
Partisan	-2.531	3.173	-0.798	0.437
District	0.646	3.452	0.187	0.854
MultiMember	12.571	6.371	1.973	0.066
Term	-0.021	0.732	-0.028	0.978
1990	2.366	5.264	0.450	0.659
1992	1.286	3.025	0.425	0.676
1994	0.102	3.352	0.030	0.976
1996	2.810	6.078	0.462	0.650
1998	-1.912	5.885	-0.325	0.749
Constant	75.663	18.259	4.144	0.001

Dependent variable: percentage of vote for winner

Mean of dependent variable: 55.88

N = 61

F (15, 16) = 37.16

Prob > F = 0.0000

R² = 0.3864

Root MSE = 9.212

Omitting those races that involved a lot of independent expenditures does not affect the efficacy of campaign spending in incumbent-challenger races, as seen in Table 7.16. Campaign spending by the challenger continues to promote electoral competition, while spending by the incumbent remains statistically insignificant. Finally, all of the other variables significant in Table 7.2 are significant in Table 7.16, with two exceptions. In the results for all races, competition was promoted by an election occurring in a district and in a partisan state. These variables are not significant when races involving a large amount of independent expenditures are omitted. This suggests that the results for the district variable in Table 7.2 are driven by elections in Mississippi (since it is the only state with both district elections and a large amount of independent expenditures), while Alabama is a prime determinant of the significance of the partisan variable achieving significance, since it is the only state with both partisan elections and a large amount of independent expenditures (although the significance of the partisan variable is marginal in Table 7.2).

As Table 7.17 shows, excluding those races heavily infused with independent expenditures does not significantly affect the results for open seat races. The spending by the losing candidate continues to promote competition, while the spending by the winning candidate does not affect her percentage of the vote. Further multi-member open seat races contribute to less electoral competition. However, there is one difference: when races with a large amount of independent expenditures are excluded, the fact that there was a close race in the most recent state high court election loses its significance. This suggests that previous close races may be an indication that there will be a large amount of independent expenditures in subsequent races.

Overall, consistent with the results obtained in Chapter 6, excluding those elections with a lot of independent expenditures does not significantly affect the conclusions reached about the efficacy of campaign spending.

Conclusion

This chapter sought to ascertain the affects of institutional variables on competition and on the efficacy of campaign spending. The institutional variation present in state supreme court elections makes them ideal laboratories for studying the effects of institutions on political processes.

In sum, one cannot escape the conclusion that institutions matter. Not only do institutional arrangements structure competition (either by promotion or retardation), but they also affect the efficacy of campaign spending. The results suggest that those who lament the lack of competitive races for the state high court bench, or who are concerned with the effects of campaign spending can alleviate their concerns by changing institutional arrangements. More will be said about this in Chapter 8.

CHAPTER 8

CONCLUSION

This dissertation has explored the role of campaign spending in promoting (or retarding) electoral competition in state supreme court elections over a ten-year period. The results of the empirical analysis suggest that many factors influence both campaign spending and electoral competition in elections to the state high court bench: characteristics of the candidates, the state and electoral context, campaign spending, and institutional factors. In this chapter, I conclude by tying together the empirical results with the theory developed in Chapters 1 and 2, as well as talk about the implications of these results and directions for future research.

Summary of Results

This project was one of the first to examine state supreme court elections systematically (but see Dubois 1980; Bonneau 2001b; Hall 2001a). In Chapter 4, we saw that both competition and campaign spending varied by type of selection system, by type of race, by state, and over time. In general, partisan elections were more competitive and more expensive than nonpartisan elections. Incumbent-challenger contests in partisan elections were more competitive than their open seat counterparts, while this was reversed in nonpartisan states.

Chapter 5 examined the determinants of total campaign spending for a state supreme court seat. Higher levels of campaign spending were found to be related to the margin of victory for the winning candidate, the number of state supreme court seats on

the ballot, whether the election was held in a partisan or nonpartisan state, the length of the term of office, and the percentage of the docket occupied by tort cases. Specifically, the lower the margin of victory, the fewer the number of seats on the ballot, the higher the percentage of the docket occupied by tort cases, and elections held in nonpartisan states and for longer terms of office all lead to higher amounts of campaign spending by the candidates, other things being equal.

In Chapter 6, I sought to ascertain the effects campaign spending had on the percentage of the vote received by the incumbent (or, in the case of open seats, the percentage of the vote received by the winner). However, I did not include any of the institutional variables in these models. Hence, these models treated all state supreme court elections the same. The principal reason for doing this was so that there was a baseline model against which the institutional models could be compared. That is, I wanted to estimate the models without institutional variables to better show the effects of institutions when they were included in subsequent models.

The central finding of Chapter 6 was that, consistent with the congressional and state legislative literature, challenger spending served to decrease the electoral support of the incumbent, and spending by the losing candidate decreased the winner's percentage of the vote. That is, competition was promoted by campaign spending by certain candidates. Additionally, competition was promoted in incumbent-challenger races by the presence of a quality challenger, the age of the incumbent, whether the incumbent was initially appointed to the bench, and if there was a prior close state supreme court election. The size of the voting age population served to decrease competition, indicating that the incumbency advantage is magnified in larger states. For open seat elections, in

addition to campaign spending by the loser, if the winner was challenged in a primary, she was more likely to receive a lower percentage of the vote, other things being equal. These results hold even if races that involved a lot of independent expenditures are omitted, as well as under different model specifications and estimation techniques.

The extent to which this central result held in different institutional circumstances was the subject of Chapter 7. The differences between the non-institutional models of incumbent-challenger contests were displayed in Table 7.3. In addition to the same variables attaining significance that did in the non-institutional models, in the institutional model the percentage of the docket occupied by tort cases decreases electoral competition, while partisan races and district-based elections promote electoral competition. In terms of open seats, in addition to loser spending retaining its significance, multi-member districts tend to discourage competition. Further, there was no difference in campaign spending between partisan and nonpartisan elections.

Looking at the effects of institutional variables on the efficacy of campaign spending yielded mixed results. Challenger spending promoted competition in both partisan and nonpartisan races, as well as in statewide races, single-member districts, and for longer terms of office. For open seats, campaign spending by the loser led to more competition in statewide races, as well as elections that occurred in single-member districts. In district-based elections, campaign spending by both the winner and the loser served to decrease competition. Further, challenger spending served to promote competition when shorter terms of office awaited the victor, while incumbent spending served to decrease competition when longer terms of office were at stake, likely for the reasons discussed in Chapter 7.

In sum, the results suggest that campaign spending will have the greatest influence in promoting competition in statewide, single-member district elections, regardless of the type of election (partisan or nonpartisan) or whether the election is an incumbent-challenger race or a race for an open seat. Also, for incumbent-challenger races, the longer the term of office at stake, the more effective campaign spending will be in promoting competition.

The Importance of Electoral Competition

In Chapter 1, I discussed the role of competition in electoral and democratic theory. Electoral competition is important because, by its very nature, it serves as a constraint on the actions of elected officials. Regardless of the level of knowledge or the participation of the electorate, electoral competition brings elected officials in line with the preferences of their constituents (e.g., Squire 1989a). The same holds true for state supreme court justices: electoral competition affects not only judicial behavior in terms of dissent rates, but also affects the outcome of cases (Brace and Hall 1990, 1995, 1997; Hall 1987, 1992, 1995). Thus, electoral competition plays a key role in understanding political life.

The link between electoral competition and judicial behavior cannot be understated. Consider three justices sitting on a state supreme court. These justices are similar in their ideology (liberal) in a conservative state. Justice A just narrowly won her reelection with 51% of the vote; Justice B is up for reelection in two years; and Justice C does not face the voters for another four years. Electoral competition will affect the judicial behavior of these judges, each in a different way. Suppose there is a case before

the court in which the justices are inclined to support one position, while the electorate supports the opposite position. Justice A, given that she has just narrowly won election, may be more inclined to support a position different than her own preferred position, and consistent with the electorate that just returned her to office. Justice B, coming up for election in two years and having just seen the competitive race that Justice A was in, is unlikely to take a position on a controversial issue that is at odds with the preferences of the electorate if she hopes to retain her seat. Finally, Justice C is least likely to be affected by electoral politics. Even though she has to face the electorate to retain her seat, this election is not for another four years. She does not face any immediate sanction for her position.

The above example illustrates how electoral politics can affect different justices sitting on the same high court. Electoral politics can also affect state supreme court outcomes across states. Justices in states with little electoral competition and longer terms of office can act in ways that are not consonant with the electorate with more frequency than justices in states with higher levels of competition and shorter terms of office. Thus, we would expect state supreme court decisions in states with shorter terms and higher levels of competition to be more congruent with the preferences of the electorate than state supreme court decisions in states with longer terms of office and lower levels of electoral competition. Clearly, the presence (or absence) of electoral competition plays a vital role in the behavior of state supreme court justices. This makes understanding the factors that influence electoral competition imperative to understanding the politics of state supreme courts.

State Supreme Court Election Reform

Of course, all of this relates back to the independence versus accountability debate discussed in Chapter 1. The results suggest that under some circumstances campaign spending promotes state supreme court justices being held accountable by the electorate. That is, campaign spending is not necessarily a negative aspect of state supreme court elections. While it is true that raising and spending money raises the appearance of impropriety in some cases, the acts of raising and spending money also promote electoral competition, at least when this is done by candidates relatively unknown to the electorate. Given the recent United States Supreme Court decision in *Republican Party v. White*, campaign spending is likely to become even more important in promoting electoral competition as restrictions on what candidates can, and cannot say, are lifted.

It is important to note that this dissertation does not speak to the debate over whether judges should, or should not, be elected. Indeed, this project is agnostic about the normative debate. Whether or not one method of judicial selection is “better” than another is a question I do not address. I treat state supreme court elections as a given, and seek to develop models that explain electoral competition in them. And, given that there are state supreme court elections, the results indicate that campaign spending can lead to judges being held more accountable by the electorate. Given the primacy of electoral accountability to the rationale behind judicial elections, this is a significant finding.

The findings of this study point to several implications for the conduct, and potential reform, of state supreme court elections. First, it should be noted that the

insignificance of incumbent spending does not mean that incumbent spending is irrelevant or inconsequential. Surely, incumbents would have a difficult time getting reelected if they spent no money. The finding that incumbent spending does not affect their vote total is best interpreted in light of the advantages with which they begin the campaign. Challenger spending is seen as a sign of strength; the more money a challenger spends, the more viable her candidacy. Contrary to challengers, incumbent spending is not a sign of strength; rather, since they begin the campaign with large advantages in terms of experience, visibility, and so forth, high levels of incumbent spending are a sign of weakness (Jacobson 1980, 1985, 1997). The more threatened an incumbent feels (and thus the more likely it is that her race will be close), the more money she spends. Thus, the more money an incumbent spends, the lower her vote total is likely to be. This is not due to the amount of money spent by the incumbent, however, but is a result of the competitive nature of the race.

The election of judges arose out of the need for courts to be independent from legislatures. Somewhat ironically given the current climate, the legal profession hailed the election of judges (Sheldon and Maule 1997). Now, there is growing concern about the election of judges, with many arguing that judicial elections must either be heavily regulated or eradicated (Schotland 1985, 2001; *Loyola of Los Angeles Law Review* 2001; Goldberg, Holman, and Sanchez 2002). As was discussed earlier, there is much debate in state legislatures over the current climate of state supreme court elections. The results presented here suggest that any attempt to limit the amount of money spent in these elections will lead to less, and not more, competitive elections. Incumbent candidates are not able to increase their level of electoral support by spending more money, but

challengers are; winning candidates are not able to increase their vote total, but losers are. Those who decry the amounts of campaign spending in state supreme court elections (Hansen 1998; Glaberson 2000a, 2000b; *Loyola of Los Angeles Law Review* 2001; Goldberg, Holman, and Sanchez 2002) have overlooked the fact that campaign spending promotes electoral competition. Campaigns matter, and campaign spending is necessary for candidates to make themselves known to the electorate (Jacobson 1980; Coleman and Manna 2000). This is especially true since campaign spending benefits those candidates with whom the electorate is unfamiliar (usually nonincumbents) (Jacobson 1980; Alvarez 1997). Attempts to curb the amount of campaign spending are likely to only reinforce the incumbency advantage, and suppress electoral competition.

The results also suggest that certain institutional reforms can promote competition, while others will have no effect or discourage it. Arkansas is moving to nonpartisan statewide single-member districts in 2002 (from partisan statewide single-member districts). The results here suggest that this will lead to less competition (since Chapter 4 indicates that nonpartisan elections are generally less competitive than partisan elections). However, there will be more spending (Chapter 5) in these nonpartisan races than there was in partisan races. Further, there will be no change on the influence of campaign spending on electoral outcomes (Chapter 7). Campaign spending by the challenger (incumbent-challenger races) and the loser (open seat contests) will continue to adversely affect the electoral performance of the incumbent (or winner). If the motivation behind the reform was to decrease electoral competition (and thus increase electoral independence), then it will likely be successful; however, if the purpose for the change in selection system was to lower the cost of these races or to decrease the

influence of campaign spending on the electoral support of the candidates, then the success of the reform is doubtful.

The results also provide some comfort to those who think that the incumbency advantage is insurmountable. For a candidate seeking to unseat an incumbent, she can increase her vote total simply by spending more money. Additionally, there are other factors within her control that can contribute to her success. For example, if she has prior judicial experience, she will gain more votes, as she will if there was a recent close race for the state high court bench, if the incumbent is older, or if the incumbent was initially appointed to her seat on the high court bench. This suggests that challengers will perform better if they are somewhat selective in their decisions to run (Banks and Kiewiet 1989; Jacobson 1989; Bonneau and Hall 2000, 2001). In addition to candidate characteristics, the state and electoral context matters, as do the institutional structures of the election. If all else fails, however, the results here suggest that a candidate who is able to spend freely is able to increase her vote total by a significant amount.

Future Research

While this dissertation represents the most comprehensive examination of electoral competition and the role of campaign spending in state supreme court elections to date, it certainly is not the end of such inquiry. There is much more to be done before we can fully understand the dynamics of elections to the state high court bench.

First, this dissertation has not said anything about campaign contributions. In order for candidates to spend money, they must have money. In Chapter 2, I talked a little bit about the importance contributors play in the electoral process. Contributors

give money for a variety of reasons; however, very few of them give money to candidates who are not viable. It is an open question as to what makes a potential candidate viable. Understanding what makes candidates viable is important because knowing what factors contributors look for in a candidate would help us understand how candidates attract money. Further, given a candidate with certain characteristics, we would be able to predict how much money she would be able to raise (and thus spend) as well as how well she would do against an incumbent. Not all candidates are equal, and understanding what makes candidates more attractive to contributors would help us assess the potential electability of these candidates.

Second, there is the issue of how money affects judicial decision-making. We have seen in this dissertation how campaign spending can affect the electoral support of the candidate. In addition to concern over the influence of money on the electoral process, there are those who are worried about the influence of money on the judicial decision-making process. After all, if a candidate won her election due to campaign spending (at least in part), then she may reward her contributors once she ascends to the bench. To date, there is little evidence that justices give preferential treatment to their contributors (Bell 2002), although anecdotal evidence of such favoritism abounds (Campbell 1998; Robison 1998; Choate 2000a, 2000b; Farmer 2001; Marks and Hoke 2002; Popkey 2001; Scarritt 2001; Wersal 2001). At the very least, an appearance of such favoritism exists, something that has not gone unnoticed by judges, lawyers, and even the general public (Wohl 2000; Glaberson 2000a; Dickerson 2001b; Marks 2001; Marks and Hoke 2001; Wickline 2001; Phillips 2002). Ascertaining if, and to what extent, campaign contributors are rewarded for their contributions once their candidate

ascends to the bench is a fundamental question that goes to the heart of the integrity of the bench.

Unlike congressional and state legislative elections, state supreme court elections have been relatively ignored in the political science literature despite not only their importance, but also their analytical leverage. This dissertation has shown that both electoral competition and campaign spending, as well as the effects of campaign spending on electoral competition, vary according to institutional arrangements, along with characteristics of the candidate and state. While there is more to be done, this dissertation has shown the relevance of institutional structures on such fundamental electoral variables as competition and campaign spending, as well as the importance of understanding electoral competition and its consequences for the state high court bench.

APPENDIX

Table A.1: OLS results for Table 5.3

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	-0.026	0.003	-8.599	0.000
Victory				
Control of	0.243	0.171	1.419	0.172
Court				
Number of	-0.225	0.079	-2.860	0.010
Seats				
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



Table A.2: Hausman Test Results for Table 6.2

Variable	2SLS	OLS	2SLS – OLS	S.E.
Log of Incum. Spending	3.093	0.425	2.668	6.732
Log of Chall. Spending	-1.578	-1.323	-0.254	0.599
Quality Chall.	-4.961	-4.287	-0.674	1.737
Partisan Consonance	0.351	0.754	-0.403	1.127
Age	-0.005	-0.007	0.002	0.004
Appointed First	-3.186	-3.442	0.255	.
Compete	-0.269	-0.065	-0.204	.
Prior Close Race	-3.786	-4.086	0.301	.
Control of Court	0.272	0.790	-0.518	1.581
Voting Population	0.000	0.000	-0.000	0.000
Murder Rate	-0.201	-0.049	-0.151	0.345
Tort Docket	-0.030	0.096	-0.125	0.311
1990	-0.779	-3.276	2.497	6.079
1992	-0.890	-3.691	2.801	6.171
1994	-0.718	-2.511	1.793	3.165
1996	-2.161	-3.370	1.209	1.777
1998	4.252	3.540	0.712	2.130
Constant	40.623	66.297	-25.673	64.751

H_0 = difference in the coefficients is not systematic

$$\chi^2(14) = (\beta_t - \beta_o)' (V_t - V_o)^{-1} (\beta_t - \beta_o)$$

where

β_t = the coefficient vector from 2SLS

β_o = the coefficient vector from OLS

V_t = the covariance matrix of the coefficients from 2SLS

V_o = the covariance matrix of the coefficients from OLS

$$\begin{aligned}\chi^2(16) &= 0.12 \\ \text{Prob} > \chi^2 &= 1.000\end{aligned}$$

¹ The missing value here is not that surprising. “This covariance matrix is guaranteed to be positive definite only asymptotically and assurances are not made about the diagonal elements. Negative values along the diagonal are possible ...” (Stata 1999, 11).

Table A.3: Hausman Test Results for Table 6.3

Variable	2SLS	OLS	2SLS – OLS	S.E.
Log of Winner Spending	11.067	0.919	10.148	18.013
Log of Loser Spending	-2.772	-1.763	-1.009	1.706
Quality Winner	3.212	2.113	1.099	3.443
Quality Loser	-2.778	-0.823	-1.955	4.716
Partisan Consonance	-3.743	-0.566	-3.177	6.202
Compete	1.870	-4.977	6.848	11.871
Prior Close Race	2.828	2.786	0.042	1.583
Control of Court	0.433	0.265	0.167	1.424
Voting Population	0.000	0.000	-0.000	0.000
Tort Docket	-0.498	-0.062	-0.436	0.798
1990	4.554	2.958	1.596	4.384
1992	2.932	1.403	1.529	4.993
1994	-4.675	1.496	-6.170	10.651
1996	4.175	4.338	-0.164	.
1998	-2.051	-2.777	0.726	.
Constant	-37.746	65.316	-103.063	184.462

H_0 = difference in the coefficients is not systematic

$$\chi^2(12) = (\beta_t - \beta_o)' (V_t - V_o)^{-1} (\beta_t - \beta_o)$$

where

β_t = the coefficient vector from 2SLS

β_o = the coefficient vector from OLS

V_t = the covariance matrix of the coefficients from 2SLS

V_o = the covariance matrix of the coefficients from OLS

$$\begin{aligned} \chi^2(15) &= 0.73 \\ \text{Prob} > \chi^2 &= 1.000 \end{aligned}$$

Table A.4: OLS Results for Table 6.2

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Incum. Spending	0.425	1.019	0.417	0.682
Log of Chall. Spending	-1.323	0.531	-2.493	0.023
Quality Chall.	-4.287	2.419	-1.772	0.094
Partisan Consonance	0.754	0.958	0.787	0.442
Age	-0.007	0.002	-3.104	0.006
Appointed First	-3.442	1.404	-2.451	0.025
Compete	-0.065	1.242	-0.052	0.959
Prior Close Race	-4.086	1.642	-2.489	0.023
Control of Court	0.790	1.455	0.543	0.594
Voting Population	0.000	0.000	1.898	0.075
Murder Rate	-0.049	0.187	-0.264	0.795
Tort Docket	0.096	0.083	1.155	0.264
1990	-3.276	1.537	-2.131	0.048
1992	-3.691	2.354	-1.568	0.135
1994	-2.511	2.922	-0.860	0.402
1996	-3.370	3.236	-1.041	0.312
1998	3.540	2.443	1.449	0.166
Constant	66.297	8.966	7.394	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

N = 127

F (16, 17) = 423.68

Prob > F = 0.000

 $R^2 = 0.4942$

Root MSE = 8.281

Table A.5: OLS Results for Table 6.3

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	0.919	1.127	0.815	0.427
Log of Loser Spending	-1.763	0.556	-3.172	0.006
Quality Winner	2.113	2.123	0.996	0.334
Quality Loser	-0.823	3.277	-0.251	0.805
Partisan Consonance	-0.566	1.053	-0.537	0.598
Compete	-4.977	2.866	-1.737	0.102
Prior Close Race	2.786	4.397	0.634	0.535
Control of Court	0.265	2.240	0.118	0.907
Voting Population	0.000	0.000	0.368	0.717
Tort Docket	-0.062	0.116	-0.539	0.597
1990	2.958	4.799	0.616	0.546
1992	1.403	3.342	0.420	0.680
1994	1.496	2.610	0.573	0.575
1996	4.338	5.287	0.820	0.424
1998	-2.777	5.506	-0.504	0.621
Constant	65.316	16.616	3.931	0.001

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 55.87

N = 63

F (15, 16) = 131.78

Prob > F = 0.000

 $R^2 = 0.3110$

Root MSE = 9.118

Table A.6: OLS Results for Table 6.4

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Incum. Spending	0.251	1.102	0.228	0.822
Log of Chall. Spending	-1.156	0.544	-2.125	0.049
Quality Chall.	-5.058	2.347	-2.155	0.046
Partisan Consonance	0.422	1.087	0.388	0.703
Age	-0.007	0.002	-2.934	0.009
Appointed First	-3.835	1.651	-2.323	0.033
Compete	-0.145	1.352	-0.107	0.916
Prior Close Race	-5.145	2.278	-2.259	0.037
Control of Court	1.384	2.046	0.676	0.508
Voting Population	0.000	0.000	1.391	0.182
Murder Rate	0.087	0.285	0.304	0.765
Tort Docket	0.079	0.097	0.815	0.426
1990	-5.639	2.899	-1.945	0.068
1992	-5.484	3.503	-1.565	0.136
1994	-4.597	3.661	-1.256	0.226
1996	-5.304	3.761	-1.410	0.177
1998	1.887	3.255	0.580	0.570
Constant	69.074	10.432	6.621	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

N = 115

F (16, 17) = 1914.66

Prob > F = 0.000

 $R^2 = 0.4874$

Root MSE = 8.465

Table A.7: OLS Results for Table 6.5

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Winner Spending	0.927	1.103	0.840	0.413
Log of Loser Spending	-1.762	0.563	-3.130	0.006
Quality Winner	2.118	2.160	0.980	0.341
Quality Loser	-0.794	3.048	-0.260	0.798
Partisan Consonance	-0.571	1.030	-0.554	0.587
Compete	-4.949	2.757	-1.795	0.092
Prior Close Race	2.844	5.087	0.559	0.584
Control of Court	0.268	2.278	0.118	0.908
Voting Population	0.000	0.000	0.317	0.756
Tort Docket	-0.061	0.108	-0.564	0.580
1990	2.871	5.426	0.529	0.604
1992	1.336	3.839	0.348	0.732
1994	1.426	3.268	0.436	0.668
1996	4.274	6.004	0.712	0.487
1998	-2.855	6.611	-0.432	0.672
Constant	65.200	16.472	3.958	0.001

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 55.87

N = 61

F (15, 16) = 131.780

Prob > F = 0.000

 $R^2 = 0.3111$

Root MSE = 9.317

Table A.8: Chow Test Results for Table 7.2

Model	Estimated Sum of Squares	df
Partisan	6844.093	20
Nonpartisan	2760.339	20
Full	8018.447	20

Chow Test:

$$\frac{ESS(F) - (ESS(P) + ESS(N)) / k}{ESS(P) + ESS(N) / n(P) + n(N) - 2(k)}$$

$$\frac{[8018.447 - (6844.093 + 2760.339)] / 20}{(6844.093 + 2760.339) / [(58 + 69) - 2(20)]}$$

$$F(k, n(P)+n(N)-2(k)) = F(20, 87)$$

$$F(20, 87) = -0.718$$

Thus, cannot reject the hypothesis that the regressions are the same (Gujarati 1995)

Table A.9: Hausman Test Results for Table 7.2

Variable	2SLS	OLS	2SLS – OLS	S.E.
Log of Incum. Spending	1.138	-0.188	1.326	3.592
Log of Chall. Spending	-1.634	-1.522	-0.112	0.247
Quality Chall.	-4.103	-3.858	-0.245	0.665
Partisan Consonance	-0.513	-0.384	-0.129	.
Age	-0.005	-0.006	0.001	0.001
Appointed First	-2.950	-3.123	0.173	0.275
Compete	1.278	1.402	-0.124	0.514
Prior Close Race	-4.570	-4.631	0.061	0.099
Control of Court	0.190	0.421	-0.231	1.043
Voting Population	0.000	0.001	-0.000	.
Murder Rate	0.259	0.366	-0.107	0.345
Tort Docket	0.099	0.165	-0.066	0.181
Partisan	-3.136	-3.616	0.480	0.979
District	-6.357	-6.619	0.262	0.746
MultiMember	0.625	-0.113	0.738	1.798
Term	2.430	2.624	-0.194	0.468
1990	-3.329	-4.510	1.181	3.078
1992	-3.266	-4.633	1.366	3.991
1994	-2.336	-3.166	0.831	3.034
1996	-3.171	-3.775	0.604	1.767
1998	4.277	4.001	0.277	1.270
Constant	44.474	55.936	-11.462	31.797

H_0 = difference in the coefficients is not systematic

$$\chi^2(10) = (\beta_t - \beta_o)' (V_t - V_o)^{-1} (\beta_t - \beta_o)$$

where

β_t = the coefficient vector from 2SLS

β_o = the coefficient vector from OLS

V_t = the covariance matrix of the coefficients from 2SLS

V_o = the covariance matrix of the coefficients from OLS

$$\chi^2(19) = -0.02^2$$

² In this case, the model does not meet the assumptions of the Hausman test. This can be interpreted as “strong evidence that we cannot reject the null hypothesis. Such a result is not an unusual outcome for the Hausman test, particularly when the sample is relatively small ...” (Stata 1999, 12).

Table A.10: Hausman Test Results for Table 7.4

Variable	2SLS	OLS	2SLS – OLS	S.E.
Log of Winner Spending	5.463	0.130	5.333	9.940
Log of Loser Spending	-2.253	-1.928	-0.325	0.998
Quality Winner	1.210	0.679	0.531	1.696
Quality Loser	-0.160	1.606	-1.767	5.044
Partisan Consonance	-1.546	-0.702	-0.843	1.564
Compete	-0.499	-2.778	2.279	3.156
Prior Close Race	3.588	5.223	-1.635	2.922
Control of Court	-0.642	-0.022	-0.621	1.115
Voting Population	0.000	-0.000	0.000	0.000
Tort Docket	-0.232	0.004	-0.235	0.455
Partisan	-2.894	-2.429	-0.465	.
District	5.781	0.579	5.201	9.219
MultiMember	11.198	12.584	-1.387	5.522
Term	-0.879	-0.041	-0.837	1.587
1990	2.341	2.270	0.071	.
1992	0.239	1.239	-1.000	2.164
1994	-3.431	0.049	-3.480	6.970
1996	4.609	2.730	1.879	.
1998	-0.920	-2.024	1.104	.
Constant	25.210	75.703	-50.493	88.625

H_0 = difference in the coefficients is not systematic

$$\chi^2(18) = (\beta_t - \beta_o)' (V_t - V_o)^{-1} (\beta_t - \beta_o)$$

where

β_t = the coefficient vector from 2SLS

β_o = the coefficient vector from OLS

V_t = the covariance matrix of the coefficients from 2SLS

V_o = the covariance matrix of the coefficients from OLS

$$\chi^2(18) = -0.42^3$$

³ In this case, the model does not meet the assumptions of the Hausman test. This can be interpreted as “strong evidence that we cannot reject the null hypothesis. Such a result is not an unusual outcome for the Hausman test, particularly when the sample is relatively small ...” (Stata 1999, 12).

Table A.11: OLS Results for Table 7.2

Variable	Coefficient	Robust Std. Error	t	P > t
Log of Incum. Spending	-0.188	0.965	-0.194	0.848
Log of Chall. Spending	-1.522	0.537	-2.832	0.011
Quality Chall.	-3.858	2.367	-1.630	0.121
Partisan Consonance	-0.384	1.128	-0.340	0.738
Age	-0.006	0.002	-2.736	0.014
Appointed First	-3.123	1.244	-2.511	0.022
Compete	1.402	1.236	1.135	0.272
Prior Close Race	-4.631	1.583	-2.925	0.009
Control of Court	0.421	1.852	0.227	0.823
Voting Population	0.001	0.000	1.887	0.076
Murder Rate	0.366	0.325	1.124	0.277
Tort Docket	0.165	0.065	2.544	0.021
Partisan	-3.616	2.256	-1.603	0.127
District	-6.619	3.067	-2.159	0.045
MultiMember	-0.113	3.011	-0.037	0.971
Term	2.624	0.662	3.961	0.001
1990	-4.510	1.851	-2.437	0.026
1992	-4.633	2.294	-2.019	0.060
1994	-3.166	2.989	-1.060	0.304
1996	-3.775	3.180	-1.187	0.252
1998	4.001	2.271	1.761	0.096
Constant	55.936	9.360	5.976	0.000

Dependent variable: percentage of vote for incumbent

Mean of dependent variable: 56.31

N = 127

F (16, 17) = 71.77

Prob > F = 0.000

 $R^2 = 0.5516$

Root MSE = 7.944

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