Campaign Finance: An Overview

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Points of View Reference Center

Campaign finance laws regulate the manner and extent to which political parties and candidates receive monetary contributions from individuals and corporations. These contributions fund both party operations and election campaigns. Since the Civil War, Congress has sought at various times to control who can donate to campaigns and to regulate how much money they are permitted to donate.

Supporters of campaign finance reform argue that political donations often lead to corruption, as individuals and corporations that donate do so with the expectation of favors, such as government contracts, once a candidate that they funded is elected. For this reason, many consider campaign contributions a form of legal bribery. These critics believe that the increased public funding of campaigns will limit political corruption and will lead to fairer government practices. In addition, campaign finance reformers hope that stricter regulations will allow politicians to spend more time legislating and less time fundraising.

Opponents of campaign finance reform contend that regulations preventing contributions are unconstitutional. They maintain that the First Amendment to the United States Constitution grants individuals and corporations the right to support political candidates and parties with financial donations. Moreover, opponents argue that tax dollars should not be used to support campaigns. Other opponents fear that government-imposed regulations will inherently favor one political party over another: for example, regulations limiting labor union contributions would likely hurt Democratic candidates and regulations limiting corporate donations would likely hurt Republicans.

In January 2010, the issue of campaign finance was significantly impacted by the US Supreme Court's decision in the case Citizens United v. Federal Election Commission. The court ruled 5-4 that corporate funding of political broadcasts cannot be limited, because such limitations violate the First Amendment of the Constitution. Critics of the decision expressed concern that the court attributed free speech rights to companies while proponents of the decision hailed it as a victory for the American political process.

Understanding the Discussion

Assessments: Taxes levied during the nineteenth century on federal employees to support the political party of the sitting president. Assessments were banned in 1883.

Hard Money: Donations, regulated by the Federal Election Commission (FEC), made directly to political candidates by individuals and corporations. The names of contributors and the amounts of each donation are both public record.

Political Action Committee (PAC): A private organization designed to collect money from individual contributors for use in a political campaign.

Soft Money: Also known as "indirect donations," soft money is given to a political party, rather than a specific candidate, by individuals and corporations for the purpose of party building. There were no limits to the amount contributors could give until soft money contributions were banned by the 2002 McCain-Feingold bill.

Watergate: A 1972-74 scandal uncovered after several operatives working for Republican president Richard Nixon's reelection campaign were arrested for breaking into the Democratic National Committee's headquarters at the Watergate Hotel in Washington, DC. The investigation found that the Nixon campaign had committed multiple crimes. Eventually, several Nixon campaign employees were convicted and Nixon resigned the presidency.

History

Prior to the Civil War, there were no laws regulating campaign finance contributions. Early American politicians, such as Thomas Jefferson and John Adams, ran for office in much the same manner as current politicians. Campaigning, however, was considered undignified. Candidates stood for office, and individuals wrote tracts in newspapers to either support or denounce them. In the early nineteenth century, the spoils system was instituted, under which election winners rewarded their supporters with lucrative government jobs in return for their support. Government employees were then taxed an "assessment" to fund the political campaigns of the elected leaders and the political party in power. This led to the birth of modern political campaigns, in which politicians travel the state or country attempting to persuade citizens to vote for them. In order to succeed in these larger platforms, such campaigns required additional financial contributions from supporters.

The first attempt to regulate campaign finance came in 1837, when Congressman John Bell of Tennessee, a member of the Whig Party, introduced a bill prohibiting assessments. Congress, however, did not vote on it.

The first successful campaign finance regulation was passed in 1867. Written into that year's naval appropriations bill, the regulation prohibited military officers and government employees from demanding money from naval yard workers.

Substantial reform, however, did not occur until the Pendleton Civil Service Reform Act of 1883, which banned the assessment system altogether and established the United States Civil Service Commission. Under the act, government employees were no longer expected to pay for the incumbent party's political campaigns, and most federal government jobs became classified as civil service positions to be filled on merit. Over the next forty years, progressive politicians sought, with limited success, to further limit the corruption created by political contributions.
In 1905, President Theodore Roosevelt asked Congress to ban all corporate contributions. In 1907, Congress passed the Tillman Act, which banned corporations and national banks from contributing to candidates. In practice, however, the act did little to stop contributions, because there was no enforcement mechanism or penalties for noncompliance. In 1910, Congress passed the Federal Corrupt Practices Act (FCPA), which required members of Congress to disclose the names of campaign contributors. The act also limited the amount of money politicians could

spend, but again, no enforcement was written into the law. The FCPA remained in force until 1971, when it was repealed by the Federal Election Campaign Act.

Throughout the 1940s, Congress limited campaign contributions by labor unions, regulated the amount individuals could donate to candidates, and banned businesses working for the federal government from donating to campaigns. In order to circumvent campaign finance laws, labor unions established the first political action committees (PACs). A PAC collects money from individual contributors, such as union members, and then distributes it to a particular candidate. Between the late 1940s and the 1970s, few new campaign finance laws were introduced. In 1971, however, Congress passed the Federal Election Campaign Act (FECA), which established regulations for federal primary races and general elections. These regulations included limits to individual contributions and increased public disclosure of campaign receipts.

Following the Watergate scandal and the resignation of President Richard Nixon, Congress amended FECA in 1974, severely limiting the amount individuals could contribute to federal candidates and placing spending limits on federal elections. In addition, the law established the creation of the Federal Election Commission (FEC) to enforce election laws and to establish a public financing program for federal candidates.

In 1976, the United States Supreme Court struck down sections of the FECA in Buckley v. Valeo, finding that Congress could not limit the amount of money candidates spend on their own campaigns, because such restrictions violated the First Amendment's guarantee of free speech. In 1979, Congress amended the FECA, prohibiting candidates from using excess campaign contributions for personal expenses.

During the 1980s and 1990s, PACs became increasingly important, since donors could contribute more money to PACs than to individual campaigns and political parties. PACs became a method for candidates to gain an advantage over their opponents. Critics argued that PACs created a political environment in which corporate donors were given more power than individual voters. In the mid-1990s, Republican senator John McCain and Democratic senator Russell Feingold spearheaded a movement in Congress to reform campaign finance laws. Although initially met with resistance, Congress passed the Bipartisan Campaign Reform Act, also known as the McCain-Feingold bill, in 2002. The act banned soft money contributions to national parties and restricted candidate-specific advertising by private interest groups. In addition, the act increased the amount individuals could donate to specific candidates. These contributions, known as hard money, are regulated by the FEC.

Campaign Finance Today

Some Republican lawmakers criticized the McCain-Feingold bill, arguing that it infringed on freedom of speech and also penalized Republican contributors more than Democratic contributors. In 2004, the Supreme Court ruled 5-4 in McConnell v. Federal Election Commission that most of the McCain-Feingold bill was constitutional, including the bans on soft money and interest group advertisements. In 2006, the Supreme Court ruled in Wisconsin Right to Life, Inc. v. Federal Election Commission that there exists an exception in the McCain-Feingold bill for

certain advertisements, namely, "issue ads" (anything other than an ad that only urges the support or defeat of a specific candidate), from the general rule that prohibited broadcasting advertisements that merely mentioned a candidate's name within sixty days of a general election.

Today, campaign finance remains a controversial issue. Critics argue that the McCain-Feingold bill did not go far enough in ending influence peddling in elections. Some argue that the United States should shift to an entirely government-financed campaign system under which each candidate would receive a set amount of money for their campaigns. Such systems exist in many European nations. The 2006 conviction of lobbyist Jack Abramoff on several counts of fraud strengthened the argument for the federal financing of elections and underscored the need for reform.
Others believe that campaign contributions are akin to free speech and that individuals should be allowed to support, with their own money, whatever candidates and parties they choose. Restricting campaign finance to government funds, critics argue, would lead to both increased corruption and higher taxes.

In the 2008 race for the presidency, then-candidate Barack Obama famously became the first major party candidate to reject public financing, thereby freeing himself from the restrictions on the amount his campaign could spend in return for public funds. Some view Obama's decision, and subsequent success, as casting into doubt the future of public financing in national elections. In 2010, the Supreme Court ruled in Citizens United v. Federal Election Commission that corporations, unions, and nonprofit organizations that support or oppose a candidate, referendum, or law could make unlimited financial donations to social welfare organizations, termed 501(c)(4) organizations under the Internal Revenue Code. Moreover, the identities of their donors need not be disclosed. Citizens United deemed such political contributions to be free speech and thus protected.

During the 2016 presidential primary races, the issue of campaign finance became heated once more. Senator Bernie Sanders, a candidate for the Democratic nomination, argued vigorously for reform, arguing that all outside funding should be eliminated and that campaigns should rely on public funding exclusively. Sanders and his Democratic rival, former secretary of state Hillary Clinton, both favored overturning the 2010 Citizens United decision by appointing Supreme Court justices who would likely do so and by attempting to pass a constitutional amendment. On the Republican side, Governor Chris Christie favored eliminating all spending restrictions but increasing donor transparency, while Senator Lindsey Graham and businessman Donald Trump both supported campaign finance reform. Trump also announced that he was self-funding his campaign, although during the general election, as Republican nominee, he did raise outside funds with the Republican National Committee. Sanders's rallying call for reform, along with Trump's actions, are likely to fuel the debate over the role of outside funding in campaigns in the spotlight for some time to come.