



Money and Free Speech: Campaign Finance Reform and the Courts

Melvin I. Urofsky

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Money greases the wheels of American politics from the local level to the White House. In the 2004 presidential campaign, President George W. Bush alone raised nearly \$400 million in private and public funds—nearly twenty times the combined total raised by John Kennedy and Richard Nixon in 1960—to defeat challenger John F. Kerry, further fueling anxiety over the power of money to dictate political results.

Melvin Urofsky, one of our nation's most respected legal historians, takes a fresh look at efforts to rein in campaign spending and counter efforts in the courts to preserve the status quo. He offers a thoughtful and balanced overview of campaign finance reform and the legal responses to it, from the Progressive era through the Supreme Court's landmark ruling in *McConnell v. FEC* (2003) and its impact on the 2004 election.

Urofsky focuses especially on the 1971 Federal Election Campaign Act and 2002 McCain-Feingold or Bipartisan Campaign Reform Act (BCRA), and on challenges to both in the Supreme Court. In *Buckley v. Valeo* (1976), the Court upheld contribution limits but struck down expenditure caps on First Amendment grounds. In *McConnell* it upheld the key provisions of McCain-Feingold. In both cases, however, opponents argued that congressional control of campaign financing was an unconstitutional infringement of the free speech rights of campaign contributors. Urofsky deftly steers the reader through this contentious and complex history, revealing how both Congress and the courts have navigated uneasily between the Scylla of potential corruption and the Charybdis of suppressing political speech.

Ironically, despite the Court's decision upholding McCain-Feingold, the 2004 presidential election was the most expensive in history—because, as Urofsky notes, money is the mother's milk of politics and both candidates and donors will always find ways to keep it flowing. His book provides an excellent and succinct guide to the controversies and historical debates emerging from that fact.

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