**The Wonderful World of Campaign Finance Law**

1. (Federal) Corrupt Practices Act (1910; 1911, 1925)
   1. Main laws regulating campaign finance until FECA
   2. Rarely enforced
   3. General spending limits and required disclosure of donor names and spending amounts
2. Hatch Act (1939; 1940)
   1. Federal employees of the executive branch are prohibited from campaign activities
3. Federal Election Campaign Act and creation of FEC (1972; amended 1974)
   1. Result of Watergate scandal and Nixon using CREEP (Committee to Re-elect the President) campaign donations inappropriately
   2. Created the Federal Election Commission to monitor election spending
   3. Also created Federal public funding for Presidential campaigns
      1. Optional $3 donation from personal income taxes
      2. Candidates may receive matching funds if they accept spending limits.
         1. 2008 limits: $42 million in primary; $84 million in general election
         2. NOTE: Barack Obama was first candidate ever to refuse federal public funding. Romney then also refused public financing, as well.
      3. Government will match each individual contribution up to $250
      4. Eligible if a person received 5%+ of vote in previous election
4. *Buckley v. Valeo* (1976)
   1. Direct challenge to FECA
   2. Wealthy politician (Buckley) wanted to spend his own money on his own campaign
   3. Court held that individuals spending their own money are exercising their 1st Amendment free speech rights. Candidate expenditures cannot be limited.
5. Bipartisan Campaign Reform Act (a.k.a. “McCain-Feingold”)—2002
   1. Interesting…most politicians voted in favor of it since it claimed to “clean up politics” and they assumed the Court would strike down most of it anyway. But the Court upheld most of it until 2010.
   2. Original individual contribution limits—adjusted up for inflation in odd-numbered years since then
      1. One can give $1000 per candidate, per election
      2. One can give $20,000 to national party, per year
      3. One can give $50,000 total in a two year election cycle
   3. Political party can accept $15,000 from PACs, but nothing from corporations or unions.
   4. Donations must be disclosed to the FEC.
   5. Limited broadcast of “issue advocacy” ads within 30 days of a primary and 60 days of a general election
6. PACs
   1. PACs are Political Action Committees of corporations, labor unions, or other interest groups
   2. Sole purpose is to raise money for the group to spend on elections—a fundraising arm of the organization
   3. Regulated by McCain Feingold
   4. Around since FDR, but proliferated after McCain Feingold severely limited corporations’ and interest groups’ spending
   5. Corporations cannot contribute directly to PACs but can sponsor a PAC for employee donations.
   6. Names and contributions must be disclosed
      1. PACs can give
         1. $5,000 to a named candidate per election (primary, general, or special are all considered separate)
         2. $15,000 to a national party committee
         3. $5,000 to another PAC (annually)
      2. PACS may receive
         1. $5,000 from any one individual, PAC or party committee (annually)

Over…

1. *Citizens United v. FEC* (2010)
   1. Citizens United is a conservative non-profit 527 group that made a documentary bashing Hillary Clinton called “Hillary: The Movie.”
   2. Citizens United was not explicitly working with a candidate or political party
   3. Citizens United planned on airing "Hillary: The Movie" on a video-on-demand service and advertising it on TV during the presidential primary elections. The group receives corporate funding, and corporation-funded ads are against McCain-Feingold. Fined and banned by FEC; appeal ensues
   4. Holding: McCain-Feingold's prohibition of broadcast, cable and satellite "electioneering communications" by either unions or corporations violated the First Amendment. (See 5F above) Corporations and Unions are no longer limited in amounts of **spending**
2. The eruption of “SOFT MONEY GROUPS” mainly after *Citizens United*
   1. Characteristics
      1. Unregulated/Unlimited Money
      2. $ Cannot Be Donated Directly To A Candidate
      3. $ Cannot Coordinate With Parties Or Candidate’s Campaigns
   2. 527 groups
      1. Aka Independent Organizations
      2. Named for a section in the tax code
      3. Do not "expressly advocate" for the “election or defeat” of a candidate or party.
      4. Can accept unlimited individual and corporate contributions
      5. Must disclose donor names
      6. CANNOT use a candidate’s name in an ad or they lose tax-exempt status
      7. Maintain tax-exempt status only if their activities include “voter mobilization” and “issue advocacy”
      8. MoveOn.org and Swift Boat Veterans For Truth were very influential. E.g. MoveOn.org had a free Jay-Z concert in Miami with the explicit purpose of registering non-white, urban young people to vote outside the stadium (assuming Democrats voting for Obama). 1000s registered.
   3. “Super PACs” --2010
      1. Formed after *Citizens United v. FEC* and *SpeechNow.org v. FEC* decisions
         1. SpeechNow is a non-profit 527. Court held that *individuals* can now give unlimited donations to an “independent group” as long as they don’t communicate with parties or candidates directly. This directly supported the idea of Super PACs
         2. Citizens United is a non-profit 527. Court held that *corporations and unions* cannot be limited in the amounts they donate.
      2. Super PACs technically called “Independent Expenditure-Only Committees”
      3. CANNOT donate money directly to a candidate like PACs do
      4. Can raise unlimited sums of money from corporations, unions, associations and individuals
      5. Can spend unlimited sums to overtly advocate for or against political candidates.
      6. May name candidates in ads
      7. Must disclose their donors to FEC (unlike 501Cs)
      8. Must operate independently of candidates and cannot contribute to individual candidates
   4. 501Cs
      1. Tax exempt group
      2. Aka “Social Welfare Non-Profits”
      3. Don’t have to disclose names of the donors (from 1958 *NAACP v. Alabama* case—protecting donors from harassment)
      4. As long as they are only creating “issue ads” without using the “magic words” (vote for, vote against, support, elect, defeat) from a footnote in the *Buckley v. Valeo* case.
      5. No “political activities” allowed except voter registration
   5. *McCutcheon v. FEC* (2014)
      1. Total limits set in McCain-Feingold were declared unconstitutional (previously, they were capped under the “aggregate limit” rule)
      2. The government cannot prevent citizens from giving campaign contributions to as many different candidates and political parties as they want

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