

Money in Politics Part VII

Where do we go from here?

Cathy Peacock concluded:

Regulating money in politics can get complicated.

To quickly summarize: in the 1900's there were many acts that limited contributions (Tillman Act of 1907, 1925 Federal Corrupt Practices, 1947 Taft Hartley, 1971 Federal Elections Campaign Act to mention a few). Then in the 2000's things changed with Citizens United and McCutcheon cases that did away with limits and added the complexity of free speech.

Politicians spend more than half their time raising money. Special interests spend more money lobbying Congress than taxpayers spend funding Congress. Most hours of a candidate's day are spent on begging for funding instead of focusing on our nation's futures. Presidential election spending has doubled since 2000 and it is predicted to hit \$10 billion this cycle. Less than one quarter of 1% of Americans contribute more than \$200 to federal campaigns. With little ability to get their voices heard above the din of all that cash, the American people are cynical about the process. Polls indicate that 75% of this country thinks the federal government is corrupt.

So where do we go from here: How can our trust in the political system be restored?

Proponents of good government are trying to work at both state and federal levels to do the following: Have full disclosure of who is spending in elections and strengthen the power of small donors to play a role in politics.

There are many options to accomplish this.

Here are some Legislative approaches:

- Expand legislation on disclosure. For example Republicans and Democrats in Montana united to ban dark money by requiring all groups spending in state politics to make their donors public, regardless of tax status.
- Tighten rules governing coordinated spending such as in Super PACS
- Prohibit members of Congress from fundraising from the interests they most directly regulate. South Carolina has banned registered lobbyists from donating to politicians.
- Adopt public funding for all candidates. Currently only presidential candidates. Could be extended to all federal offices and states could adopt public funding. New York City and Connecticut have model systems in place,

and jurisdictions like Maryland and states like Maine, North Carolina, Illinois and New York are fighting to keep, strengthen or enact public funding systems. In CT campaigns receive full funding from a flat grant provided by the state's innovative clean elections program. The League supports publicly funded elections as one of the most effective ways to offset the influence of big money donors and diversify the candidate pool.

- Change the make up of the US Supreme Court by including more justices friendly to reform
- Use or expand state corporate law to regulate spending. For example require shareholder approval before campaign donations are made.

California, Delaware Maryland, Massachusetts, Hawaii, Vermont and North Carolina have updated and expanded their disclosure regulations and enforcement. Connecticut, Minnesota and Vermont have promising new policies in place to crack down on coordination between candidates, campaigns and outside groups.

As of January 2015, 16 state legislatures have passed bills calling on Congress to pass amendments addressing money in politics and corporate personhood. With similar resolutions pending in 16 other states.

In a speech in February, Governor Cuomo promised to use his powers over the state budget to push the Legislature to enact a raft of important campaign financing changes. However he has already collapsed under pressure and nothing was accomplished.

There are some non-legislative, more regulatory approaches:

- Federal Election Commission and the state regulatory agencies could be more effective at enforcing the remaining campaign finance laws.
- The SEC could adopt a rule governing corporate political expenditures.
- The IRS could strengthen and enforce the not for profit political activity rules closing the loopholes that allow unlimited secret spending for 501c4 groups while protecting truly non-partisan voter service activity.

Some advocates are pushing for a constitutional amendment in response to Citizens United. Proposed conditional amendments have focused on reversing the Court's ruling that corporations have full political speech rights and that funding a political campaign is protected speech.

Justice Stevens has proposed the strongest amendment addressing the problem that corporations are not persons and money is not speech.

“ Neither the First amendment nor any other provision of the constitution shall be construed to prohibit the congress or any state from imposing reasonable limits on the amount of money that candidates for public office or their supporters may spend on election campaigns.”

Justice Stevens also wrote a dissent in Citizens United: “In a variety of contexts, we have held that speech can be regulated differentially on account of the speaker's

identity...The Government routinely places special restrictions on the speech rights of students, prisoners, and its own employees among others”

I hope that I have made the point that there is no lack of potential solutions: legislative, regulatory, constitutionally. The League is pursuing a strategic, multi-dimensional approach at the federal and state levels. In January we will be holding a consensus meeting on Money in Politics to help the national and state advocates focus on the solutions we as a League feel are most important.

To give you a sneak preview the questions include

- What should be the goals and purposes of campaign finance regulation?
- Which campaign related activities are types of political corruption?
- Should spending to influence an election by any types of groups be limited? (Pac's, Not for profits, trade association)
- Should spending by the press be limited?
- How should campaign finance regulation be administered?

What can you do to prepare for this consensus?

There is a lot of resource material available through the League at forum.lwv.org

Notice what went on in our local elections and is going on with the primary activity? Who is raising money, from what sources, how is the press involved, how is the money being used? How easy is it to get the information?

I hope to see you in January for the consensus meeting.

The most important thing we can do is vote for candidates who want to see our campaign finance system fundamentally changed. ###