

considered speech. Campaign contributions allow citizens and interest groups to express their views by supporting and influencing political candidates and parties. They also enable campaigns, candidates, political parties, and their supporters to present views to the electorate. However, are they equivalent to speech and thus deserving of constitutional protection?

Legal challenges to the 1974 Federal Election Campaign Act gave the U.S. Supreme Court the opportunity to answer those questions. Among its provisions, the act limited the amount of money that individuals and groups could contribute to federal campaigns in a calendar year. It also placed caps on total group and individual expenditures on behalf of a candidate, as well as the amount candidates could spend on their own campaigns. The Court upheld limits on contributions in order to prevent a political quid pro quo system in which government policies might be purchased by the highest bidder. On the other hand, it ruled that restrictions on expenditures violated free speech guarantees because individuals, groups, and candidates alike had the right to vigorously advocate their positions.⁵¹

As a result, the Court's interpretation of the Federal Election Campaign Act allowed the limits on contributions to campaigns by individuals, groups, and even candidates themselves, but banned restrictions on campaign expenditures because such bans would be a restriction on free speech. In 2014, however, the Court would weaken its limits on campaign contributions in the case of *McCutcheon v. F.E.C.* The decision in the *McCutcheon* case invalidated the aggregate limits on contributions included in a new federal campaign law. Now, there are no limits on the total amount of money a donor can give to all candidates, political party committees, and political action groups.

The Court's decision led to a dramatic increase in campaign expenditures by individuals, interest groups, candidates, and political parties. Concerned about the escalating costs of campaigns, Congress passed the Bipartisan Campaign Reform Act of 2002. The law bans unlimited contributions to national political parties and places some limits on the expenditures of groups advocating the election or defeat of a particular candidate. In *McCutcheon v. F.E.C.* decided in 2014, the Court struck down the aggregate limits on the total amount an individual may contribute during a two-year period to all federal candidates, parties, and political action committees combined. In *McConnell v. Federal Election Commission* (2003), the Supreme Court upheld almost all of the provisions of the act, but in the 2007 case of *Federal Election Commission v. Wisconsin Right to Life/McCain et al. v. Wisconsin Right to Life*, it crafted a major exception to the limitations on broadcast ads by ruling that unless an ad could not reasonably be interpreted as anything other than an ad urging the support or defeat of a candidate, the ad would be allowed in the thirty-day period before a primary or sixty-day period before a general election.

In 2010, however, the Court further clarified its position on broadcast ads in the case of *Citizens United v. Federal Election Commission*. The case involved the attempt of a conservative nonprofit group to broadcast commercials of their scathing documentary, *Hillary: The Movie*, and to run the movie on a cable video-on-demand service. In 2008, a federal district court had ruled that the attempt violated the provision of the McCain-Feingold law banning "electioneering communications" paid for by a corporation before a primary election.

In reversing that decision, the Supreme Court held that the government cannot restrict corporations from spending money to influence political campaigns. It based its decision on the argument that such censorship violated the freedom of speech guarantee of the First Amendment. The Court's opinion could soon open the door to direct contributions to candidates from corporations and unions that are still prohibited today. Conservative groups like the Center for Competitive Politics hailed the decision as a win for the political rights of small businesses and grassroots groups, whereas liberal groups like Common Cause feared the decision would now allow corporate profits to drown out voices of the public. They believe the flow of this money could corrupt the political system.

The Court does view the issue of elections and campaign contributions differently, however, when applied to judicial elections. Thirty states have laws that prohibit judicial candidates from personally asking their supporters for campaign contributions. The Supreme Court faced this type of law in the 2015 case of *Williams-Yulee v. Florida Bar*. A five-member majority saw such laws as restricting free speech but nevertheless constitutional. They argued that such restrictions were required to protect the integrity of the judiciary having elected judges and necessary to preserve public confidence in such courts.