

Money, politics, and the First Amendment

Buckley v. Valeo, Forty Years Later

When it comes to the role of money in politics, according to Cato senior fellow Jeffrey Milyo, people aren't just uninformed—they're misinformed. As he recounted at Cato's conference, "The Past and Future of *Buckley v. Valeo*," when asked what percentage of political spending comes from Super PACs, the median response is 67 percent. Only 2 percent of people select the right answer—25 percent or less. The exact number is actually closer to 10 percent. The conventional wisdom is that money plays an outsized role in politics, but, he argued, the data doesn't bear this out. "Politicians do nothing good with their time," Milyo quipped. "If they spend a lot of time raising money, we're all safer."

Nevertheless, campaign spending remains a deeply controversial issue. To commemorate the 40th anniversary of the Supreme Court's landmark ruling on campaign finance, *Buckley v. Valeo*, the Cato Institute and the Center for Competitive Politics held a conference to discuss the legacy and future of the ruling, which struck down campaign spending restrictions but upheld restrictions on contributions. Vice President John Samples recalled Cato founder and president emeritus Ed Crane's personal involvement in *Buckley* as a plaintiff, and his subsequent years battling for First Amendment rights in politics.

The conference opened with a discussion between Bradley Smith of the Center for Competitive Politics, a former chair of



Renowned constitutional lawyer FLOYD ABRAMS (right) and former Federal Election Commission chair BRADLEY SMITH of the Center for Competitive Politics (CCP) discussed the legacy of *Buckley v. Valeo* at a Cato-CCP conference. *Washington Post* reporter MATEA GOLD moderated the panel.

the Federal Election Commission, and Floyd Abrams, one of the nation's leading First Amendment lawyers. Smith vigorously defended the right to spend money on political speech, arguing that if you can't spend money to advance your political opinions, that limits your speech, just as an inability to pay to print Bibles would limit your freedom of religion.

Abrams recalled the very day of the decision, at which he was present 40 years ago. He dubbed the ruling a "tolerable compromise," but added, "There's no doubt in my mind that it has led to a sort of crazy quilt system of enforcement." Smith proposed that the system should be simplified—a

point also made by Milyo, who noted that the rules governing campaign spending are impossible for lay people to understand, posing great challenges to grassroots lobbyists who may easily violate the rules without even realizing they exist. This, he argued, is an area where people from all sides might be able to band together to change the rules.

Despite some disruption from Washington's "Snowzilla," which shut down the federal government that day, the conference went on and was broadcast that evening by C-SPAN. ■

PRESENTATIONS FROM THIS CONFERENCE CAN BE VIEWED ONLINE AT C-SPAN.ORG.