

MONEY,
POLITICS, AND
THE FIRST
AMENDMENT

FIFTY YEARS OF SUPREME
COURT DECISIONS AND
CAMPAIGN FINANCE
REFORMS

Edited by

LEE C. BOLLINGER
AND
GEOFFREY R. STONE

OXFORD
UNIVERSITY PRESS

OXFORD

UNIVERSITY PRESS

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide. Oxford is a registered trade mark of
Oxford University Press in the UK and in certain other countries.

Published in the United States of America by Oxford University Press
198 Madison Avenue, New York, NY 10016, United States of America.

© Oxford University Press 2026

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system,
transmitted, used for text and data mining, or used for training artificial intelligence, in any form or
by any means, without the prior permission in writing of Oxford University Press, or as expressly
permitted by law, by license or under terms agreed with the appropriate reprographics rights
organization. Inquiries concerning reproduction outside the scope of the above should be sent
to the Rights Department, Oxford University Press, at the address above.

You must not circulate this work in any other form
and you must impose this same condition on any acquirer.

CIP data is on file at the Library of Congress.

ISBN 9780197821916

ISBN 9780197821909 (hbk.)

DOI: 10.1093/9780197821947.001.0001

The manufacturer's authorized representative in the EU for product safety is
Oxford University Press España S.A. of Parque Empresarial San Fernando de Henares,
Avenida de Castilla, 2 – 28830 Madrid (www.oup.es/en or product.safety@oup.com).
OUP España S.A. also acts as importer into Spain of products made by the manufacturer.

Contents

<i>Acknowledgments</i>	xi
<i>List of Contributors</i>	xiii

Opening Dialogue	I
<i>Lee C. Bollinger and Geoffrey R. Stone</i>	

PART I: INTRODUCTION TO THE SUPREME COURT: DECISIONS ON CAMPAIGN FINANCE REGULATION

1. <i>Buckley v. Valeo's</i> Dubious yet Durable Contribution– Expenditure Distinction	13
<i>Richard Briffault</i>	
2. How <i>Buckley v. Valeo</i> Led Us Astray	35
<i>Paul M. Smith</i>	

PART II: CRITIQUES AND A DEFENSE OF THE MAJOR DECISIONS

3. Getting It Wrong: The Supreme Court and Campaign Finance	51
<i>Erwin Chemerinsky and Alex Chemerinsky</i>	
4. <i>Citizens United</i> : Cracks in the Façade	69
<i>Diane P. Wood</i>	
5. A Defense of <i>Buckley v. Valeo</i> and <i>Citizens United v. FEC</i>	85
<i>Floyd Abrams</i>	

PART III: CAMPAIGN FINANCE AND RACE

6. Race and Campaign Finance Deregulation	93
<i>Abby K. Wood</i>	

**PART IV: RECOMMENDATIONS FOR LEGISLATION ON
CAMPAIGN FINANCE REFORM**

7. Money Talks, Dark Money Whispers: How Anonymous,
Unlimited Political Spending Is Corrupting American Democracy 113
Sheldon Whitehouse
8. Elections in the Age of A.I. 121
Amy Klobuchar and Stephen Spaulding

**PART V: ARGUMENTS INTERPRETING THE “CORRUPTION”
RATIONALE**

9. Corruption, Campaign Finance, and Criminal Law:
Buckley’s Legacy 143
Deborah Hellman
10. Campaign Finance and “Real” Corruption 159
Nicholas O. Stephanopoulos
11. *Buckley* at 50: By What Right? 179
Lawrence Lessig

**PART VI: THE EFFECT OF CAMPAIGN FINANCE:
ON POLITICAL INSTITUTIONS**

12. *Buckley v. Valeo*: Doctrinal Difficulties and Institutional Failure 195
Samuel Issacharoff
13. Campaign Finance and Political Polarization 211
Richard H. Pildes
14. Party Campaign Finance: From FECA To Modern
Hyperpartisanship 227
Michael S. Kang
15. Plutocratic Democracy, Elon Musk, and the Limits of
Campaign Finance Reform 243
Farris Peale and Guy-Uriel E. Charles

**PART VII: THE RELATIONSHIP BETWEEN CAMPAIGN
FINANCE AND THE STATE OF AMERICAN DEMOCRACY**

16. A Political Question?: Partisan Gerrymandering,
Campaign Finance Regulation, and the Supreme Court 267
David A. Strauss
17. Without *Buckley*, Would American Democracy Really
Be All That Different? 283
Pamela S. Karlan
18. Campaign Finance and Contemporary Political
Dysfunction 293
Nathaniel Persily

**PART VIII: A COMPARATIVE APPROACH TO CAMPAIGN
FINANCE**

19. Leveling The Playing Field: Insights from Comparative
Constitutional Law 315
Mark Tushnet
- Closing Statement 331
Lee C. Bollinger and Geoffrey R. Stone
- Other Books by Bollinger & Stone* 335
- Notes* 337
- Index* 417