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Politics

Campaign Finance Law Heads to Supreme Court

By Robert B. Bluey
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(CNSNews.com) - The U.S. Supreme Court considers a case Monday that political observers acknowledge will likely to shape the role of money in politics for years to come.

The Bipartisan Campaign Reform Act (BCRA) of 2002, otherwise known as the McCain-Feingold bill that banned "soft money" political contributions, will be the subject of an unusually lengthy four hours of argument before the court. The case pits campaign finance reformers against free speech advocates.

Two of the lawyers who will argue against the law outlined their arguments Friday. Kenneth W. Starr, former solicitor general and Whitewater independent counsel, and Floyd Abrams, a noted First Amendment attorney, said the law runs afoul of the Constitution.

While Abrams will focus on the free speech concerns of the law, including restrictions on advertising, Starr plans to emphasize the law's impact on political parties, organized labor and businesses in elections. He said all those entities lose out at the expense of interest groups.

"There is a fundamental shift of power brought about by BCRA to interest groups," said Starr, who worried that voter identification, voter registration and get-out-the-vote efforts would now be carried out exclusively by interest groups because of the law's regulations.

Starr said he is particularly worried that some of these organizations will be unaccountable surrogates for political parties.

"Political parties in this country - in contrast to interest groups enjoying their First Amendment rights - have served a very pivotally important function in our system of moderating extreme views and diluting the influence of organized interests," Starr said.

Traditional opponents like the U.S. Chamber of Commerce and the AFL-CIO have rallied together to challenge the law. The American Civil Liberties Union, for instance, has voiced its frustrations that political action committees (PACs) are subject to fewer restrictions.

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Not all organizations share those views, however. In a recent *Wall Street Journal* op-ed, Starr wrote that the environmentalists at the Sierra Club and abortion advocates at EMILY's List would "chuckle from the sidelines" because of their newfound authority.

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Other interest groups have cited a need for change in the political system as the basis of their support.

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"There is a perception in this country that wealthy interest groups and individuals who give large donations to political campaigns control the decisions made by elected officials," said the Rev. C. Welton Gaddy, president of the Interfaith Alliance. "Because of this, it is vital that we promote an open and honest campaign finance system that allows elected officials to represent their constituents and not their funders."

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Abrams said the law goes too far to regulate campaign spending and contributions. He said incumbent lawmakers benefit most from the law, as is evident from the 98 percent re-election rate in the House of Representatives.

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"The case from a First Amendment perspective is especially important because of the topic of the speech," he said. "After all, the speech is about the advertisements dealing with issues, dealing with candidates, broadcast around elections. One would think this would be the speech we protect most, not least."

Abrams, who is arguing on behalf of the National Association of Broadcasters, said the law's restriction on ads is especially troubling. It restricts the airing of ads by unions and businesses containing a candidate's name or image one month before a primary and two months before the general election.

But advocates for reform insist that these regulations are not much more stringent than those adopted by Congress in the 1970s following the Watergate scandal involving President Richard Nixon.

Paul S. Herrnson, director of the Center for American Politics and Citizenship at the University of Maryland, said election lawyers have gradually chipped away at past regulations dating to the early 1900s, which necessitated the passage of McCain-Feingold.

"The new law says you can do whatever you want outside the election season," Herrnson said. "But inside the election season, we're turning to a system, which was in place before, that says money spent during elections has to be raised from individuals and cannot be corporate or union treasury funds."

He said freedom of speech for individuals and PACs remains unchanged by the law. Starr and Abrams, however, said businesses and labor unions shouldn't have to resort to extraordinary regulations.

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(May 2, 2003)

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