



# The VOTER

VOLUME 55 NUMBER 10

November-December 2015

## Calendar (League activities in bold)

EVENT/ACTIVITY	DATE	DAY	TIME	LOCATION/INFO
<b>Program Planning &amp; Holiday Party</b>	Dec 2	W	6 - 8:45 pm	Porter residence. Mainly "Money in Politics" consensus, plus some program planning, and a PARTY!
<b>LWVCC Board meeting</b>	Jan 4, 2016	M	7-9 p.m.	Vogelson Library Room B. Members welcome to attend. Please let us know if you are coming as meetings may be cancelled or moved.

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### Board Report Nov 2, 2015

1. The meeting was largely devoted to the Amending the Constitution Consensus.

**League of Women Voters of Camden County**

## Board Message

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Hello, fellow League members and friends!

First of all, please join us for our Holiday Party and Money in Politics Consensus at the Porter residence, on Wednesday, Dec 2. Good food, good company, and we'll do a consensus as well. There is a lot of information in this Voter about the consensus, including the list of questions. You may want to print and bring that section of the Voter with you.

Have you signed the online petition that the LWVNJ is supporting concerning the Penn East pipeline and giving the people a chance to be heard? Read more here: <http://www.thepetitionsite.com/112/352/735/let-the-people-be-heard-on-the-penneast-pipeline/>

The LWVNJ web site also has a link to the Democracy Act that the League supported (and the Governor vetoed). Read more at the link: <http://politickernj.com/2015/11/advocates-condemn-christies-veto-of-democracy-act/>

If any of you are reading a paper copy of the Voter, remember that you can easily get to an online version (with live links). Our home page is <http://www.lwvnj.org/camdencounty/> -- easy to type. We're a subpage of the LWVNJ page. From there, click on "The Voter - our newsletter" in the left column. Years and years of back issues!

In League

Ed Gracely  
Board member

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**The League of Women Voters, a nonpartisan political organization of men and women, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.**

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*The VOTER* is published ten times a year to keep the membership and public informed of the activities of the League of Women Voters of Camden County. For subscription or membership information call (856) 795-7878.

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## Getting there - Directions!

**Haddon Township: Rohrer Library:** Take 295 to Route 30 north. On 30, pass King's Highway. In about a mile after King's Highway, just after Nicholson Road on the left, you'll see Cuthbert Road on the right. Turn right onto Cuthbert from 30. Stay on Cuthbert for about half a mile. Just past Hopkins, turn right onto MacArthur. The library is at that corner. // This is the same Cuthbert Road that becomes Cuthbert Blvd further north at routes 70 and 38, so you could take it south from there. MacArthur is about 0.8 miles south of Haddon Avenue on Cuthbert Blvd.

**Voorhees: Vogelson Regional Library:** Driving south on 30, turn left onto Somerdale Road just above the Voorhees Town Center. Go under the train bridge in about a half mile, then turn right onto Burnt Mill (at the light). Soon turn left onto Laurel Road at a light. The library is on your right as you pass the mall.

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## Freeholder Meetings

We encourage League members to observe Freeholder meetings when they are convenient for you. Just show up with a LWV button to let them know we are watching! Don't make any statements -- you aren't entitled to speak for the League (or even yourself after wearing a League button). You can ask a neutral/informative question, however. Meetings start at 7. It's good for Camden County!

The list for the year is online at <http://www.camdencounty.com/your-government/public-information/2015-freeholder-meetings>

The **December** meeting is December 17 at 7PM (Wayne Bryant Community Ctr., 323 Charleston Avenue, Lawnside). Take a look -- see when they are near you and observe the meeting!

## LWVUS Money in Politics Study

This update on Money In Politics builds on the League's current position on campaign finance.

The consensus questions in **Part I** address the goals of campaign finance regulation in terms of democratic values. For example, should campaign finance reform include ensuring candidates have sufficient funds, that voters have sufficient information about candidates, and that the public knows who is spending money? We will also be asked to determine whether certain kinds of activities should be counted as "corruption".

The questions in **Part II** relate to the extent to which First Amendment protections like free speech and freedom of the press should apply to various speakers and activities in the campaign finance context. For example, should spending by wealthy individuals, labor unions, newspaper, and/or PACs be limited, and if so, how much?

**Part III** asks about methods of campaign finance regulation. For example should we support public funding, and if so in what form? Should certain funding sources be banned. How should campaign finance regulations be administered (such as by a commission or by the FEC). **You are asked to respond to the questions without regard for the Supreme Court's current views on the First Amendment.** That's important because the first reaction many of us will have is, "That's unconstitutional"!

### **Background and League history (Edited from the LWVUS site - I also removed the references)**

Adopted in 1974, the League's campaign finance position focuses only on the financing of election campaigns as it relates to the *democratic process*, i.e., opportunities for undue influence, opportunities to ensure equity among candidates, protection of the public right to know and to fully participate.

In contrast to the League's approach, the activities that the U.S. Supreme Court focused on largely involve *free speech*. Election campaigns develop messages for publication, from speeches and debates to paid advertising in various media. Money is required to coordinate the messaging and pay for the advertising. Under the Court's approach, a system of campaign finance protects the rights of the individual candidate to disseminate her message as well as the rights of her donors to express their own views through her message -- and also protects the rights of other political actors who may wish to make election expenditures independent of the candidates or to advocate in support or opposition to particular public policy issues. To the Court, this campaign speech (as opposed to campaign finance) is central to American democracy and is what the First Amendment was designed to protect.

The League position, with its more collective approach, does not answer the question of whether all or some political activity constitutes free speech protected under the First Amendment. Because it does not address that question, the position does not balance the First Amendment interests of candidates, donors, independent spenders, and issue advocates against the interest in equitable competition among candidates for office, preventing undue influence, and enhancing voter participation.

For almost 40 years, the Supreme Court's approach and the League's approach intersected in one important aspect. Over that time, the Court recognized the risk that campaign contributions are corrupting or appear corrupting, especially if those contributions are very large or come from the general funds of corporations or unions. Historically, the League has been able to argue successfully through litigation and through legislative action that contribution limits and the exclusion of corporations from participating directly in

the political process should be upheld. The position has also allowed us to support enforcement mechanisms and other reforms.

That agreement between the League and the Court that large contributions can be corrupting changed with the *Citizens United v. Federal Election Commission* decision. The Court drastically extended its views on free speech to allow unlimited independent spending in candidate elections by corporations and unions and entirely discounted any danger from any undue influence other than *quid pro quo* (“something for something”) corruption. That radically transformed the election landscape.

Proposed constitutional amendments in response to *Citizens United* and subsequent cases have focused on reversing the Court’s rulings that corporations have full political speech rights and that funding a political campaign is protected speech, and give Congress and the states the authority to regulate “the raising and spending of money by candidates and others to influence elections,” which the Court has deemed protected speech.

The League is pursuing a strategic, multi-dimensional approach at the federal and state levels to overcome or limit the Court’s decision in *Citizens United*. To date, the League has not supported or opposed particular legislation to amend the Constitution. Even putting aside the considerable practical barriers to ratifying an amendment as well as unintended consequences of the various proposed amendments, we believe that our current campaign finance position does not address First Amendment considerations.

To update the League position on campaign finance to include the First Amendment requires member understanding and agreement on these issues. The Money in Politics Committee has thus been tasked with undertaking member study and consensus, in addition to educating members and the public broadly about money in politics issues.

### **The League's Position**

*Statement of Position on Campaign Finance, as Announced by National Board, January 1974 and Revised March 1982:*

The League of Women Voters of the United States believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office and allow maximum citizen participation in the political process. *This position is applicable to all federal campaigns for public office — presidential and congressional, primaries as well as general elections. It also may be applied to state and local campaigns.*

### **LWV Action on Money in Politics**

Year in and year out since 1974, the League has fought for comprehensive campaign finance reform to address the abuses in the existing system, supporting bills that curbed special-interest contributions and provided public financing for candidates who accepted voluntary spending limits. The League has called for limits to PAC and large contributor donations, for closing the soft-money loophole. It also strongly supports a strong and effective Federal Election Commission.

The League expended incredible effort in the five-year campaign for the McCain-Feingold-Shays-Meehan bill, which reached fruition when President Bush signed the legislation into law. The bill, known as the *Bipartisan Campaign Reform Act (BCRA)*, closed the most significant loopholes in campaign finance regulation – the "soft money" loophole that allowed unlimited corporate, union, and individual contributions, and the "sham" issue ad loophole that allowed undisclosed contributions to campaign advertising advocating particular candidates. The League was instrumental in developing this approach and pushing it – at the grassroots and in Congress – to final enactment.

In more recent Congresses, the League has lobbied actively for the passage of the "Disclose Act" which would close the disclosure loopholes that are allowing outside groups to make secret contributions in federal elections

Of course, litigation has recently overturned significant aspects of what has been achieved over the years with the *Citizens United v. FEC* case. The impact of *Citizens United* has dramatically changed the political landscape, and the League's current work is directed towards finding feasible ways to correct the massive problems created by the decision. Further inroads were made by the *McCutcheon v. FEC* decision.<sup>[1]</sup>

### **Why Money in Politics Matters to the League of Women Voters**

Money in politics matters because the goal of campaigning is to convince voters, either for or against a candidate or issue. Thus, campaigning is ultimately about communication. In our modern age, this includes speech and money. It is very important that one continually keeps combining campaign, communication, free speech, and money in their thinking.

### **Purpose of a Campaign Finance System**

A campaign finance system is intended to control and limit the money spent on election campaigns. Why do that? The first reason is to protect the right of voters to know who is spending money to influence their vote. The second reason is to prevent corruption. The only corruption that the current U.S. Supreme Court acknowledges is *quid pro quo* which, in the context of political campaign finance, refers to an explicit agreement by a candidate or elected official to perform a specific act in exchange for something of value. But reformers believe that money in politics should be controlled because it may allow undue access or influence. Third, reformers want to control money out of a belief that unlimited spending gives an unfair advantage to candidates and spenders. Finally, there is a concern that the rise in spending corrupts representative government by downplaying the role of the voters and allowing for unfair competition, possibly leading to lower voter turnout

## **CORRUPTION AND RATIONALES FOR REGULATING CAMPAIGN FINANCE**

### **Corruption Defined in 1976-2010 Supreme Court Decisions**

The nature of what constitutes corruption has been addressed in a number of Supreme Court decisions since *Buckley v. Valeo* (1976), which set out the *quid pro quo* standard to define corruption. "Quid pro quo" (in Latin, "this for that") refers to an exchange between a candidate and donor in which the candidate receives a personal gain (a contribution for election or re-election to office) from the "sale" of public power (a vote or other action that benefits the donor). The concept of corruption was broadened in Court

decisions from the 1980s until 2010, as noted below, to incorporate concerns about corruption that distorted the political process through undue influence on and undue access to officeholders, resulting in failure to address issues of public concern. Attention to the broader definitions of corruption also focused on issues of trust in the system of representative democracy and political equality.

### ***Distortion of the Political Process***

A broader interpretation of corruption that has been accepted in support of the regulation of campaign contributions in past Supreme Court cases is distortion of the political process. Starting with the ideal that public policies should reflect the public interest and that officeholders should represent the interests of their constituents and the broad national interest, distortion is understood as favoring the interests of large campaign contributors and independent spenders when they conflict with the public interest or the best interests of constituents. The Court found that distortion can occur through processes of undue influence on candidates and officeholders by large donors in the 1986 *FEC v. Massachusetts Citizens for Life* and 1990 *Austin v. Michigan Chamber of Commerce* decisions.

In *McConnell v. FEC* (2003), the Court expanded the concept of undue influence to include undue access to officeholders by wealthy contributors as a legitimate threat to democratic political processes. The *McConnell* case was particularly notable in its documentation of evidence that wealthy donors did receive special access to influence officeholders.

### **Narrowing Corruption Back to *Quid pro Quo***

The current Supreme Court in its 5-4 decision in *Citizens United v. FEC* (2010) retreated to the *quid pro quo* definition of corruption as the only justification for restricting campaign contributions by corporations, unions, and other interest groups. The majority in the *Citizens United* decision rejected distortion as a compelling state interest to justify limits on the First Amendment by dismissing it as a problem that needed to be solved. What is “undue” influence and access cannot be determined by clear-cut guidelines because elections and political participation are inherently about influence and access, according to the Court’s majority.

The Court reaffirmed its position in the *McCutcheon v. FEC* (2014) decision, which stated that aggregate limits on an individual person’s campaign contributions also violated the First Amendment guarantee of free speech.

### **Arguments to Support Limits on Campaign Finance Since 2010**

In response to *Citizens United* and subsequent decisions that narrowed the definition of corruption to *quid pro quo* bribery, three legal scholars (Lawrence Lessig, Robert C. Post, and Nicholas Stephanopoulos) have recently offered somewhat similar arguments for the compelling government interest in limiting money in campaigns. Their arguments are based upon criticisms of the current system of campaign financing and its negative consequences on officeholders, voters, and the general public. These scholars argue that the pernicious effects of unlimited campaign contributions and spending are powerful enough to overcome First Amendment free speech concerns.

Thus, Lessig argues that the whole system of officials needing donors, donors wanting results, and lobbyists going between them, creates a complex "dependence" that has a corrupting influence. Post focuses on the impact large donations have on the public -- if these donations underline our trust in the electoral system, they are potentially damaging to the democratic process. Stephanopoulos argues that large contributions influence decisions and election results towards the interests of wealthy people, thus away from those of the average voter.

## Questions

### Part I (all answered "Agree" "Disagree" or "No consensus")

#### 1. What should be the goals and purposes of campaign finance regulation?

- a. Seek political equality for all citizens.
- b. Protect representative democracy from being distorted by big spending in election campaigns.
- c. Enable candidates to compete equitably for public office.
- d. Ensure that candidates have sufficient funds to communicate their messages to the public.
- e. Ensure that economic and corporate interests are part of election dialogue.
- f. Provide voters sufficient information about candidates and campaign issues to make informed choices.
- g. Ensure the public's right to know who is using money to influence elections.
- h. Combat corruption and undue influence in government.

#### 2. Evaluate whether the following activities are types of political corruption:

- a. A candidate or officeholder agrees to vote or work in favor of a donor's interests in exchange for a campaign contribution.
- b. An officeholder or her/his staff gives greater access to donors.
- c. An officeholder votes or works to support policies that reflect the preferences of individuals or organizations in order to attract contributions from them.
- d. An office holder seeks political contributions implying that there will be retribution unless a donation is given.
- e. The results of the political process consistently favor the interests of significant campaign contributors.

### Part II (all answered "Spending banned" "some spending limits" "unlimited spending" "no consensus")

#### 1. Many different individuals and organizations use a variety of methods to communicate their views to voters in candidate elections. Should spending to influence an election by any of the following be limited?

- a. Individual citizens, including wealthy individuals like George Soros and the Koch Brothers.
- b. Political Action Committees, sponsored by an organization, such as the League of Conservation Voters, Chevron, the American Bankers Association, and the International Brotherhood of Electrical Workers (IBEW), whose campaign spending comes from contributions by individuals associated with the sponsoring organization, such as employees, stockholders, members and volunteers.
- c. For-profit organizations, like Exxon, Ben and Jerry's, General Motors, and Starbucks, from their corporate treasury funds.
- d. Trade associations, like the U.S. Chamber of Commerce, the American Wind Energy Association, and the American Petroleum Institute, from the association's general treasury funds.

- e. Labor unions, like the United Autoworkers and Service Employees International, from the union's general treasury funds.
  - f. Non-profit organizations, like the Sierra Club, Wisconsin Right to Life, Coalition to Stop Gun Violence, American Crossroads, and Priorities USA, from the organization's general treasury funds.
  - g. Non-partisan voter registration and GOTV (get out the vote) organizations and activities, like the LWV and Nonprofit Vote.
  - h. Political parties, like the Republicans, Libertarians, and Democrats.
  - i. Candidates for public office spending money the candidate has raised from contributors.
  - j. Candidates for public office spending their own money.
2. **The press plays a major role in candidate elections through editorial endorsements, news coverage, and other communications directly to the public that are often important to the outcome. Should such spending to influence an election by any of the following be limited?**
- a. Newspapers, like the New York Times and the Wall Street Journal.
  - b. Television and other electronic media, like Fox News, CNN, MSNBC and CBS.
  - c. Internet communications, like Huffington Post, Breitbart, Daily Kos, and individual bloggers.

### Part III

1. **In order to achieve the goals for campaign finance regulation, should the League support?** *(Please respond to each item in Question 1 a and b.) (all answered "Agree" "Disagree" or "No consensus")*
- a. Abolishing SuperPACs and spending coordinated or directed by candidates, other than a candidate's own single campaign committee.
  - b. Restrictions on direct donations and bundling by lobbyists? (Restrictions may include monetary limits as well as other regulations.)
  - c. Public funding for candidates? Should the League support: *(You may respond to more than one item in Question 1 c.)*
    - i. Voluntary public financing of elections where candidates who choose to participate must also abide by reasonable spending limits?
    - ii. Mandatory public financing of elections where candidates must participate and abide by reasonable spending limits?
    - iii. Public financing without spending limits on candidates?
2. **How should campaign finance regulations be administered and enforced?** *(You may choose more than one response for Question 2.)*
- a. By an even-numbered commission with equal representation by the two major political parties to ensure partisan fairness (current Federal Election Commission [FEC] structure)?
  - b. By an odd-numbered commission with at least one independent or nonpartisan commissioner to ensure decisions can be made in case of partisan deadlock?
  - c. By structural and budget changes to the FEC (e.g., commission appointments, staffing, security, budget, decision making process) that would allow the agency to function effectively and meet its legislative and regulatory mandates.
  - d. No consensus.

**OPTIONAL COMMENTS (250 word limit):**

If You Are Interested In:

- *Learning about government and the political process.*
- *Getting involved in the political process in nonpartisan ways.*
- *Meeting and working with other citizens who care about good government.*



**Join the League Of Women Voters of Camden County**

**Call 856-795-7878 or send this form to: PO Box 245, Voorhees, NJ 08043**

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 Annual membership is \$60 (plus \$30 for each additional household membership). To join, or for more information, send this form or call the number above. **First time new annual membership** is only \$25! This also applies to student and household members (for an entirely new household membership).

I want to become a member of the LWV of Camden County: \_\_\_\_\_ (Check enclosed for \$\_\_\_\_\_)

Please send me information on membership in the LWV of Camden County \_\_\_\_\_

Name \_\_\_\_\_

e-mail: \_\_\_\_\_

Address \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_

(Please include area code)

The



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