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After the election (2)

Money, politics and more money

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The McCain-Feingold reforms come through their first test

TWO YEARS ago, George Bush rather grumpily signed the Bipartisan Campaign Reform Act. Better known as “McCain-Feingold” after its senatorial sponsors, John and Russ, the bill was supposed to reform money politics. The effect? American politicians spent a colossal $4 billion for this year's presidential and congressional races—a third more than was spent in the 2000 election.

Big spending was not a guarantee of victory. In the presidential race, Mr Bush outspent John Kerry by around $65m, but, once you add in spending by third-party Bush-bashing groups (George Soros alone spent $27m on such causes), Mr Kerry may actually have had the superior firepower. In the Senate's most expensive race, Tom Daschle spent $7m more than his Republican challenger, John Thune, in South Dakota—but he still lost.

Yet, all in all, big spenders tended to win. In eight out of ten races for open seats in the House and in nine of ten open Senate races, the winners outspent their rivals. Incumbents, more than 90% of whom were re-elected in both houses, enjoyed a huge fund-raising edge: in New York, Senator Chuck Schumer, who already had a $16m war-chest, added another $11m, even though he had a safe seat.

Does this mean that McCain-Feingold failed? Surprisingly, no. The success rate for incumbents in the House surely had more to do with gerrymandered redistricting than money. More fundamentally, McCain-Feingold's aim was never to get money out of politics (for better or worse, that remains a minority point of view in America); it was to make it harder for big donors to wield influence over politicians.

The bill basically did three things. It banned “soft” money (unlimited cash given to parties, not individual campaigns, supposedly for party building) while simultaneously raising contribution limits for “hard” money (given directly to candidates and the parties) from $1,000 to $2,000. It prohibited unions and other organisations from running “issue ads” (usually thinly disguised attacks on individual candidates) within 60 days of the general election and 30 days of a primary. And it required candidates clearly to authorise their ads, giving them a disincentive to launch spurious attacks.

When McCain-Feingold was passed, its critics claimed it would endanger free speech (giving money, they claim, is protected under the free-speech part of the constitution). In fact, both parties amassed more hard dollars for this election than they did in soft and hard money combined in 2000. Thanks to the new law, political fundraising became far more broad-based, with individual contributions to parties and candidates jumping from $1.5 billion in 2000 to roughly $2.5 billion this year. The proportion of donations coming from people who gave $200 or less shot up from 10% in 2000 to nearly a third. The Kerry campaign raised over $80m in donations through its website.

On the other hand, corporate giving all but dried up. Companies were happy to be banned from making soft-money donations. Trade unions found they got more bang for their buck by organising get-out-and-vote drives among their members than by broadcasting ill-timed issue ads.

There were two big exceptions to this rosier picture. The first were the “527” organisations patronised by the likes of Mr Soros. These allegedly independent organisations (named after a provision in the tax code) amassed an impressive $470m, much of it from rich individuals. Some 46 wealthy people gave more than $1m each. Some of the 527s were genuinely independent, but by any normal definition, many were not: the Democrats in effect contracted out a lot of their organisation to groups like America Coming Together, and the Republicans had close ties to the Kerry-bashing Swift Boat Veterans for Truth.

Mr McCain blames the Federal Election Commission (FEC) for not administering the law toughly enough. A 1976 Supreme Court decision says that groups whose “major purpose” is to influence federal elections must register with the FEC as “political committees”. Mr McCain will push legislation in Congress's upcoming session that will require all such 527s to do this, thereby making them submit to the hard-money rules. He has also pledged to shut down the FEC. But can he get these things past his fellow Republicans, many of whom would rather scrap McCain-Feingold than reform it?

The other problem has to do with the system of providing public money for presidential candidates during the primaries. This was supposed to even things up and help the challengers. But the state's cash comes with too many strings—principally a limit on how much the candidate can raise. Mr Kerry, like Mr Bush, rejected the offer. That saved taxpayers' money, but it made the two main candidates even more dependent on “bundlers”, the fund-raisers who specialise in racking up hundreds of $2,000 contributions.

Here, changing the law may be easier, at least at the presidential level. But an anomaly remains: there is no public money to help challengers in congressional races. Strangely, there is little chance of sitting congressmen and senators altering the rules to help the upstarts.