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## The Money Chase

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An earlier version of this article appeared in the *American Spectator*, November 1999, pp. 18–19. Bethell, Washington correspondent for the *American Spectator*, argues that the real hero of campaign finance reform is not Senator John McCain, who reaps continual praise from the press for his stand on this issue, but Senator Mitch McConnell, who has steadfastly opposed it despite continual media criticism and attacks.

Bethell notes that the media has no objections to the limitations on free speech proposed by campaign finance reformers because these limitations do not apply to them.

**M**cConnell, not McCain, is the profile in courage.

The touted advocate of reform, Sen. John McCain of Arizona, isn't really very interested in the details of comparing finance law. But he's good at having it both ways: complaining about the money in the system, even as he milks the contributions that flow to his presidential campaign as a result of his chairmanship of the Senate Commerce Committee, receiving (with Sen. Russell Feingold of Wisconsin), the \$25,000 JFK "Profile in Courage Award" for sponsoring reform legislation, even as he rides the wave of media support for doing so. One close observer on Capitol Hill said: McCain doesn't know the law, he doesn't know the jurisprudence, he doesn't know what's in his own bill. But there's one thing he does know. The issue is a top concern of the *New York Times* and the *Washington Post*.

In September, the Shays-Meehan Bipartisan Campaign Reform Act passed the House by a vote of 252-177. It included a ban on unregulated contributions to political parties and severe restrictions on radio and television issue advertising by private groups for two months before elections. The ACLU rightly objects as follows: "Members of Congress need only wait until the last 60 days before an election (as they often do now) to vote for legislation or engage in controversial behavior so that

their actions are beyond the reach of public comment and, therefore, effectively immune from citizen criticism.”

When the bill was introduced in the Senate, this filibuster-attracting restriction was dropped. No surprise here. McCain has been stripping down his own reform measure for some time. In 1997 he removed a proposed ban on PACs (supported by 86 senators in 1993), and he also removed the limits on overall spending by politicians. “Everything is negotiable,” he would tell Senate colleagues. Yet he continues to be praised as a man of principle. The reformers’ plan is to reintroduce the advertising restrictions by amendment on the Senate floor.

Campaign finance laws are abridgments of political speech—the kind of speech that the First Amendment was above all meant to protect. Now, reformers want even more restrictions. We should all be grateful to Sen. Mitch McConnell of Kentucky for opposing them so resolutely. It is he who has shown the profile in courage. His twelve-year stand on the issue has brought him a stream of criticism from brain-dead editorial writers in the *Louisville Courier-Journal* and the *Lexington Herald-Leader*, not to mention weekly attacks by the *New York Times*. McConnell, fifty-seven, is an unusual figure, a professional politician who understands the Constitution and is not afraid of the media. And he has mastered the complexities of campaign finance law.

His greatest victory came in the fall of 1994, with the Democrats still in control of Congress and President Clinton poised to sign the legislation. McConnell successfully filibustered the appointment of conferees to reconcile different versions of a bill that would have seriously undermined the GOP’s ability to compete with union-supported Democrats. Since then, campaign finance reform keeps coming back. It has been defeated mainly thanks to McConnell’s efforts and to the Senate rule that sixty votes are needed to cut off debate.

Campaign finance laws are the equivalent of price controls on politics. In their effects they resemble New York City’s rent-control laws. They make life more difficult for everyone—except the very rich. They tend to protect incumbents. Perversely, money has become more im-

portant, not less. That is not what Common Cause had in mind when it promoted the Federal Election Campaign Act of 1971. This law and its amendments fill a 142-page volume—a paradise for lawyers and a headache for politicians. With the \$1,000 limit on an individual's contribution to a candidate unadjusted for inflation since 1974, candidates must now spend an inordinate amount of time seeking campaign funds—the Money Chase.

“This is what we talk about in the cloakrooms, this is what we talk about at our lunches,” says former senator Dan Coats of Indiana. “This is what we talk about down in the gym and when we have our private moments—this ever-escalating demand on our time to raise these funds.” Many others say the same thing, especially when they retire. Sen. Frank Lautenberg of New Jersey is only the most recent. Behind his decision to retire was “the searing reality that I would have had to spend half of every day between now and the next election fund-raising.”

With contribution limits locked in place for a quarter of a century, the population expanding, and the federal government hunting as always for new ways to regulate our lives, the money began flowing into unregulated channels. The Supreme Court had said in 1976 that money that did not expressly advocate voting for or against identified candidates was protected by the First Amendment. These money outlets (to political parties) are what the reformers now want to block. Forever denying the existence of unintended consequences, reformers assume that, when their plans go awry, more regulations are needed.

To the extent that there is a problem, it was caused by the money limits. The cost of a serious campaign has risen by a factor of ten since 1974. Even David Broder of the *Washington Post* has called for an increase in the \$1,000 limit, which would “reduce the number of phone calls a candidate has to make.” Rep. Chris Sahys of Connecticut and Sen. McCain have made the same argument. Yet neither proposed such an increase in their bills. The reason is that Democrats are bitterly opposed to it, as are Common Cause and whiskey heiress Ellen Miller's Public Campaign (supported by George Soros).

The reality is that both Shays, a McGovern supporter in 1972, and McCain have used their nominal Republican affiliation to lend a bipartisan aura to what is in effect Democratic legislation. The latest reform measure would prevent the GOP from using “soft money” to overcome the built-in advantage that compulsory trade union dues and get-out-the-vote efforts have given the Democrats. A partisan bill has been dressed up as a good government measure.

Conventional wisdom says that “obscene” amounts of cash are flowing into politics. The *Washington Post* says it repeatedly—without evidence. When Bill Bradley claims that there is “way too much money in politics,” the press corps nods complacently. The very opposite is the truth. In the latest election cycle, \$675 million was spent contesting House and Senate seats. With 196 million eligible votes, this is less than \$4 a head, or, as Sen. McConnell likes to say, less than the price of a McDonald’s extra value meal. In the presidential election year of 1996, *The Economist* wrote, “spending on political ads amounted to only one percent of all television advertising.” Yet Congress disposes of more than 20 percent of GDP. Meanwhile, \$8 billion a year is spent on pornography. The *Washington Post* has misplaced the obscenity.

In the 1998 Senate races, Senator Chris Dodd of Connecticut said, “Wining candidates raised a total of \$161 million for an average cost of just under \$5 million.” He thought that was too much. But the Congress spends about \$1.7 trillion a year, and a senator will be in office for six years. Thus \$5 million “buys” a one-hundredth share of control over the disposition of about ten trillion dollars. Divide through by a million to make these figures more meaningful, and we see that five dollars gives you a one-hundredth share of control over \$10 million. If only people realized how much of their money Congress disposes of every year, they would rationally spend a great deal more than they do now to gain control over the massive redistributions that take place in Washington. According to Rep. Kevin Brady of Texas, the average cost of competitive campaign for a House seat “is just a little less than a million

dollars.” (Thus a House seat is somewhat more expensive because it buys a smaller share and for only two years.)

Why do the news media so eagerly support this assault on political speech? The First Amendment, one thought, was the part of the Constitution they took seriously. Think again. When Sen. Ernest Hollings tried an end run around the Supreme Court in 1997 with a constitutional amendment that would have gutted the First Amendment by giving Congress the power to regulate “the amount of expenditures that may be made by, in support of, or in opposition to, a candidate,” there was not a peep from the media. The resolution received thirty-eight votes in the Senate (Sens. Cochran, Jeffords, Roth, and Specter voting aye on the GOP side).

The key to understanding the media’s position is their exemption from the law. The term “expenditure” does not include “any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate.” A McConnell staffer notes that if the Republican Committee bought NBC, the Federal Election Commission would regulate the evening news and that, under Shays-Meehan, “Tom Brokaw could not mention a candidate’s name within sixty days of a general election.” The new law would increase the media’s power by restricting alternative sources of information. Conservative publications, incidentally, would qualify for the media exemption and might even be flooded with political advertising for two months of the year. That indeed would be a consequence unintended by Common Cause.

Campaign finance reformers are usually portrayed as virtuous seekers after the public interest. The truth is that they are imbued with a profound cynicism. They assume that legislators can be bought with campaign donations that exceed \$1,000. Sen. Coats drew attention to the canard of corruption when he testified last March: “Most of us couldn’t even go through [contributor lists] and identify exactly who

gave what, we are so busy trying to do all that we need to do.” Candidates may say, “What is our total? How much do we have?” But they don’t examine lists. Sen. McConnell says that although he was chairman of the Ethics Committee for four years, “we never got a single complaint on that issue.” He repeatedly urged colleagues who used the corruption argument to give him an example. But he “never got one in ten years of handling that debate.”

Notice the undisguised cynicism of Max Frankel, former executive editor of the *New York Times*. In a recent column, he referred to campaign contributions as “bribes that must eventually be repaid with political favor and privilege.” He should contact the news desk of his own newspaper with the evidence for this. It would be a front page story. John Lott of Yale Law School points out that if contributions cause politicians to vote in opposition to their own preferences, they should behave differently in their last term, when the loss of future contributions is irrelevant. But his research found no relationship between the reduction in campaign expenditures in politicians’ final terms and how they voted. In fact, voting tends to remain stable over an entire career.

Yet McCain says: “The level of cynicism about elected representatives is growing quickly and could lead to alienation. It’s gotten to the point where most people figure, ‘Look, there’s nothing we can do about it. These groups are beholden to special interests and they won’t change a lucrative system that keeps them in office.’” He stirs up the pot of cynicism and then says how badly it smells.

In October 1999, the McCain-Feingold measure received fifty-five votes in the Senate, and was once again defeated by a McConnell-led filibuster. But a McConnell staffer on the Senate Rules Committee predicted that campaign finance reform will soon return to the legislative calendar, perhaps in the year 2000.