
Campaign Solution: Lift All Contribution Limits

George F. Will

This selection first appeared in the *Washington Post*, April 3, 1997. Will supports ending restrictions on campaign expenditures and contributions as a simple and radical reform consistent with the First Amendment. In this op-ed he makes the point that attempting to control hard money (that given directly to candidates) requires controlling soft money (that given to parties for party-building activities), which in turn requires that spending by independent groups on issue advocacy also be controlled.

Agreeable and unsurprising reports indicate the campaign to inflame the public against the First Amendment is faltering. The debate about campaign financing may yet move in Rep. John Doolittle's direction. But before that desirable eventuality there may be a disagreeable and unsurprising attempt by "progressives" to circumvent democratic processes that their preferred reforms are supposed to perfect.

The campaign, which recently limped from Boston to Philadelphia, aims to gather, by July 4, 1,776,000 (get it?) signatures in support of the McCain-Feingold bill. The First Amendment says "Congress shall make no law . . . abridging the freedom of speech." McCain-Feingold says stuff like:

If a disbursement aggregating \$10,000 or more for any general public communication is made prior to thirty days before a primary election or prior to sixty days before a general election, it shall be considered express advocacy if a reasonable person would understand it as advocating the election or defeat of a clearly identified candidate and if the communication is made with the objective of advocating the defeat of a candidate as shown by one or more factors including a statement or action by the person making the communication, the targeting or placement of the communication, or the use by the person making the communication of

polling or other similar data relating to the candidate's campaign or election.

People staying away in droves from McCain-Feingold rallies may find that unlyrical. It is a sample of what Jonathan Rauch, writing in *National Journal*, calls "the gobbledygook that interposes gibbering hordes of lawyers and bureaucrats between politicians and voters." And it is the result of redoubling a bet on a lame horse.

The horse is the regulation—rationing, really—of campaign giving and spending, meaning political expression. Rauch notes that since the crusade to legislate political hygiene and equity began in 1974, congressional campaign spending has tripled and so has the financial advantage of House incumbents over their challengers. You would almost suspect that incumbents wrote the rationing laws. As Rauch says, "Participatory spending in politics is not a problem and should not be 'solved.'"

Former Sen. Bill Bradley, an ardent speech rationer, says money in politics is like ants in a kitchen: "You have to block all the holes or some of them are going to find a way in." Rauch responds, "But politics, unlike your kitchen, is designed to be permeable."

Deny that, and you must build an increasingly baroque system of speech regulation: To make controls on hard money (given directly to candidates) meaningful, you must control soft money (given to parties for "party building"), and to make soft money controls meaningful you must regulate political and issue advocacy by interest groups.

Soft money is today's target for speech rationers, and President Clinton reportedly wants the rationing bureaucracy, the Federal Election Commission, to ban soft money without waiting for legislation. Naturally. For decades now, the "progressive" agenda (legalizing pornography and abortion on demand, banning school prayer, busing for racial balance, attacking capital punishment, and on and on) has been advanced more by judicial or executive fiat than by persuasion.

The *New York Times* likes Clinton's idea for the FEC to preempt Congress. The media generally like reforms that enlarge the media's

unregulated portion of all political expression. Time flies. Time was when Justice William O. Douglas was one of the *Times's* judicial pinups. He said: "It usually costs money to communicate an idea to a large audience. But no one would seriously contend that a limitation on the expenditure of money to print a newspaper would not deprive the publisher of freedom of the press. Nor can the fact that it costs money to make a speech—whether it be hiring a hall or purchasing time on the air—make the speech any the less an exercise of First Amendment rights."

Rep. Doolittle (R-Calif.) has eighteen cosponsors for H.R. 965, which would end taxpayer financing of presidential campaigns (Jefferson: "To compel a man to furnish contributions for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical"); would repeal all limits on contributing to candidates for federal offices; and would require full disclosure of contributions within twenty-four hours and prompt posting of them on the Internet. This is simple and radical, like the First Amendment.