

Richard L. Hazen of Loyola University Law School in Los Angeles: "The principle of political equality means that the press, too, should be regulated when it editorializes for or against candidates."

Each new step down this road of restricting political spending and speech creates new problems and new inequities, fueling new demands to close "loopholes" by adding ever-more-sweeping restrictions. How far might campaign finance reformers go if they could have their way? Was McCain serious when he said on Dec. 21, 1999, "If I could think of a way constitutionally, I would ban negative ads"? Shades of the Alien and Sedition Acts.

Politics will always be a messy business. Money will always talk. And the cure of legislating political purity and purging private money will always be worse than the disease.

Finally, Mr. President, I would like to read into the RECORD an article by Judge James Buckley entitled "Campaign Finance: Why I Sued in 1974." Judge Buckley was the lead plaintiff in the landmark campaign finance case of *Buckley v. Valeo*. This article provides an important historical context to the current debate over restricting Campaign finances further.

It says:

Twenty-five years ago, I was a member of the Senate majority that voted against the legislation that gave us the present limitations on campaign contributions. Having lost the debate on the floor, I did what any red-blooded American does these days: I took the fight to the courts as lead plaintiff in *Buckley v. Valeo*. This is the case in which the Supreme Court held that the 1974 act's restrictions on campaign spending were unconstitutional but that its limits on contributions were permissible in light of Congress's concern over the appearance of impropriety.

The issue of campaign finance is again before the Senate. Unfortunately, today's reformers are apt to make a badly flawed system even worse.

To understand why, it is instructive to take a look at the Buckley plaintiffs. I had squeaked into office as the candidate of New York's Conservative Party. My co-plaintiffs included Sen. Eugene McCarthy, whose primary challenge caused President Lyndon Johnson to withdraw his bid for re-election; the very conservative American Conservative Union; the equally liberal New York Civil Liberties Union; the Libertarian Party; and Stewart Mott, a wealthy backer of liberal causes who had contributed \$200,000 to the McCarthy presidential campaign. We were a group of political underdogs and independents; and although we spanned the ideological spectrum, we shared a deep concern that the 1974 act would dramatically increase the difficulties already faced by those challenging incumbents and the political status quo.

Incumbents enjoy formidable advantages, including name recognition, access to the media, and the goodwill gained from handling constituent problems. A challenger, on the other hand, must persuade both the media and potential contributors that his candidacy is credible. This can require a substantial amount of seed money. As we testified, Sen. McCarthy could not have launched a serious challenge to a sitting president and I could not have won election as a third-party candidate under the present law. Large contributions from a few early supporters established us as viable candidates. Once the media took us seriously, we were able to reach out to our natural constituencies for financial support and to attract the cadres of volunteers that characterized our campaigns.

Although we won a number of the arguments we presented in Buckley, we lost the critical one when the court held that the limits on contributions were constitutional. Experience, however, has vindicated our worries over the practical consequences of these and other provisions of the 1974 act.

The legislation was supposed to de-emphasize the role of money in federal elections and encourage broader participation in the political process. Instead, by limiting the size of individual contributions, it has made fund raising the central preoccupation of incumbents and challengers alike; and it created a bureaucracy, the Federal Election Commission, that has issued regulations governing independent spending that are so complex and have made the costs of a misstep so great that grassroots action has virtually disappeared from the political scene. Today, anyone intrepid enough to engage in such activities is well advised to hire a lawyer; and even then, he must be prepared to engage in protracted litigation to prove his independence.

Legislation that was supposed to democratize the political process has served instead to reinforce the influence of the political establishment. By compounding the difficulties faced by challengers, it has consolidated the advantages of incumbency and increased the power of the two major parties. By limiting individual contributions to \$1,000, it has enhanced the political clout of both business and union political action committees—the notorious PACs.

Moreover, if today's reformers succeed in their efforts to restrict "issue advocacy," the net effect will be to increase the already formidable power of the media. The New York Times or The Wall Street Journal will be free to throw their enormous influence behind a particular candidate or cause through Election Day. But public interest groups would be denied the right to advertise their disagreement with the Times or the Journal during the final weeks of a campaign.

What is needed is not more restrictions on speech but a re-examination of the premises underlying the existing ones. Recent races have exploded the myth that money can "buy" an election. Ask Michael Huffington, who lost his Senate bid in California after spending \$28 million. The voters always have the final say. What money can buy is the exposure challengers need to have a chance. And while large contributions can corrupt, studies of voting patterns confirm that that concern is vastly overstated. The overwhelming majority of wealthy donors back candidates with whom they already agree, and they are far more tolerant of differences on this point or that than are the PACs to which a candidate will otherwise turn.

An alternative safeguard against corruption is readily available—the daily posting of contributions on the Internet. This would enable voters to judge whether a particular contributions might corrupt its recipient. What makes no sense is to retain a set of rules that make it impossible for a Stewart Mott to provide a Eugene McCarthy with the seed money for a challenge to a sitting president, or that make elective politics the playground of the super rich.

The problem today is not that too much money is spent on elections. Proctor & Gamble spends more in advertising than do all political campaigns and parties in an election cycle. The problem is that the electoral process is saddled by a tangle of laws and regulations that restrict the ability of citizens to make themselves heard and that rig the political game in favor of the most privileged players. And because congressional incumbents are the beneficiaries of the titled playing field, it is fanciful to believe that Congress will re-write the rule book to give outsiders an even break.

We have nothing to fear from unfettered political debate and everything to gain. American democracy can ill afford government control of the political marketplace; but that is where today's reformers would lead us.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTED ENERGY AND NON-LETHAL USE OF FORCE

Mr. DOMENICI. Mr. President, I rise today to discuss a serious and effective use of new technologies in our military operations. While I will focus on a specific directed energy technology, the Joint Non-Lethal Weapons Program Office is involved in many other research areas that provide innovative solutions to our military men and women in their daily missions.

Recently, the Marines unveiled a device known as Active Denial Technology, ADT. This is a non-lethal weapons system based on a microwave source. This device, mounted on a humvee or other mobile platform, could serve as a riot control method in our peacekeeping operations or in other situations involving civilians. This project and technology was kept classified until very recently.

The Pentagon noted that further testing, both on humans and, evidently, goats will be done to ensure that it truly is a non-lethal method of crowd control or a means to disperse potentially hostile mobs. The notion that the Pentagon is using "microwaves" on humans, and especially on animals, has inflamed some human and animal rights groups. Among others it has simply sparked fear that a new weapon exists that will fry people.

This is not the case. And, unfortunately, few of the media reports offer sufficient detail or comparisons to clarify the value of such a system or put its use in perspective. While ADT is "tunable," the energy cannot be "tuned up" to a level that would immediately cause permanent damage to human subjects.

The technology does not cause injury due to the low energy levels used. ADT does cause heat-induced pain that is nearly identical to briefly touching a lightbulb that has been on for a while. However, unlike a hot lightbulb, the energy propagated at this level does not cause rapid burning. Within a few seconds the pain induced by this energy beam is intended to cause the subject to run away rather than to continue to experience pain.

Such technologies have never before been used in a military or peacekeeping endeavor. Therefore, there is