

Proposed Campaign Finance Limitations

We call them campaign contributions. In practice these funds can be used for nearly anything, from campaigning to personal purposes. How about truth in politics?

First we must distinguish between monetary contributions made directly to politicians, and funds spent on issue advertising. The first amendment rights to freedom of speech and freedom of assembly rightly place such issue advertising beyond government regulation, so long as a particular party is not identified.

Money given directly to politicians or to funds under their control are different from issue advertising. Because funds given directly to politicians, or to funds they control, and because they are quite unregulated, such money is little more than huge income tax free bribes. Our Supreme Court seems receptive to reasonable regulation of these direct contributions. So let us strictly define and strictly limit politicians use of such funds to election campaigning as follows:

1. *Contributions to congressmen shall only come from their constituents.*

For a representative government to work, the *interests of the constituency* should be first and foremost in the mind of each legislator. By allowing the acceptance of out of jurisdiction cash the allegiance of our candidates is diluted and distracted. Campaign contributions should be strictly limited to citizen constituents. When we allow non-constituents to contribute money to candidates, we allow non-constituents to corrupt the selection of local representatives necessary for democratic government. The formulation and amalgamation of the *general weal*, the *sausage making* of politics should happen at the *legislature*, not the polls. For it is only when representatives and senators begin the political process reflecting the interests of the folks back home that representative government can succeed.

The lobbyist will argue: why not permit out of state contributions so we can build a national consensus? Would not out of state contributions help unite the nation as a whole? Again the election process should be to determine representation of local constituents. Consensus making is the political process of legislating. Elections are a process of sorting out proper representatives. Let us not blur the lines of demarcation. Out of state money should be scrupulously banned.

The lobbyist might then argue what of the corporations, they are citizens, too. Refer him to the Federalist paper #54 (see pg 134). Modern corporations are gluttonous users of infrastructure, shameless abusers of the environment, have a history of constantly leaving governments with huge bills for problems of all sorts, bribe politicians to win subsidies, do little but shirk their responsibilities to pay social dues (taxes). Are these reasons to allow them to make campaign contributions? This notion has been considered by Congress resulted in federal legislation that prohibit corporations, though "citizens" cannot make contributions to Federal candidates.

Unfortunately many states are behind and allow corporate money to affect state politics. This is especially a problem in state judicial races, where many states allow corporate campaign contributions, as in Wisconsin. The last Supreme Court race in Wisconsin attracted so much money from the insurance and manufacturing lobbyists that it was noted in an article in *The Economist* magazine published in London, England,

which asked what was happening in Wisconsin.

2. *Temporal limitation* : Campaign contributions may be solicited or accepted for the 180 days before the election date for Federal office or for the 120 days before state, county or local elections and, never during that time the legislature is in session.

What do we get for all the hundreds of millions of dollars of campaign contributions? Highly charged, emotional, irrational, illogical, patently false representations that are impossible to fulfill. Accusations and counter accusations, slandering and mud slinging and general rhetoric of politicians. It used to be you could make your own relief, by turning off the radio or television but now they phone you with automatic calling technology and recorded messages. We need some reasonable limitation to the activities of politicians and they provide us none. These temporal limitations are reasonable limitations of freedom of speech.

3. *Contribution Dollar Limit*: donors may contribute no more than \$50 dollars per election cycle to any candidate's campaign and no donation may be cash.

Contributions should be reasonably affordable to all, lest the wealthy have inordinate input to the political process. Just as citizens are entitled to the equality of a single vote, why should not there be a reasonable limitation on the money one can contribute to a candidate? Perhaps the amount should be what the average citizen can comfortably afford to contribute. Persons are still free to make unlimited cash contributions to political action committees so their freedom to express themselves politically would be unimpaired.

4. *Contribution Return*: All campaign contributions must be accompanied by a complete written *Contribution Return*, showing residency, constituency, dollar amount and no corporate contributions, sworn to and signed by the donor.

Campaign Contribution Return

Name	Street address
City, Village, or Township	zip code Phone number
Amount of contribution	name of employer *
	Address of employer *

*(to verify a company isn't using its' employees as a screen for its' contributions)

I swear, under penalty of law, that my residency is the street address shown above, and the source of these funds is my personal income, and not of another person, partnership, or a corporation, and that I have not acted as a conduit for any business interest.

dated _____

_____ *signature*

A provision that all candidates must maintain *contribution returns* and all compilations thereof, expense records and receipts during the pendency of an audit or any legal action thereon, but in any case for at least one year post election. Lost or destroyed records shall result in a felony charge and jury trial, with a jury instruction that the candidate is presumed guilty for the lost or destroyed records.

Why should we have constituency limitations, dollar limitations and corporate contribution prohibitions unless we have a simple way for the politicians to verify that the contributions they receive are legal? This is a simple way to help our politicians avoid the appearance of impropriety.

Isn't this the minimum information that we need to keep track of money placed in the hands of candidates? Is there any other way we can begin to be confident of money spent and unspent in campaigns? It is either this minimum bit of record keeping or taking politicians at their word as to monies received, and what good is the word of a politician when he or she is campaigning?

5. *Online posting of Contribution Returns:* Candidates, within 72 hours of receipt, must post on line at their candidacy website the following: the name, address and dollar amount for each contributor, in the order received, and the aggregate total of all funds received to date.

This would be a wonderful way to keep in touch with your candidates. It would encourage politicians to keep up to the minute records that are clear and accurate and perform the function of a real time audit. For years politicians have regulated every aspect of our lives. But there is no regulation of theirs. They have granted themselves great liberty to raise and spend money, without any accountability. The damage to our political system and our economy is beyond calculation. Let's help them clean up the system. Let's help politicians show their constituents they have mastered basic financial and management skills before they are given the reins to government.

6. *Campaign expenditures defined and limited:* Campaign contributions may only be used for valid and enumerated campaign expenditures, and then in reasonable amounts:

- office rental
- phone service
- secretarial service
- postage
- advertising and public relations
- reasonable travel expense
- consulting fees

In no case shall contributions be used all or in any part for personal items or purposes (imputed income).

We call them campaign contributions. Therefore they should be spent for, and only on, the campaign. So why not strictly limit candidates to spending campaign money on the aforesaid functions and only those functions? For example, should Milwaukee's ex- Mayor Norquist's use of campaign funds to settle his paternity suit/sexual harassment

suit qualify for a campaign expenditure? Aren't the paternity settlement funds so personal in nature, that they should not be the object of legal campaign contribution expenditure? Or does the fact that she was a campaign manager supply sufficient nexus to make this a valid campaign expenditure? Would we be ahead if we mandated that all male politicians under the age of 75 should be neutered upon being sworn into public office?

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Again, in Wisconsin, should Messrs Flynn and Chvala be permitted to spend hundreds of thousands of dollars of campaign contributions in defense of their alleged felonious acts committed while in office? Funds for criminal defense of politicians are presently valid campaign expenditures. Should this be the legal? It is one thing to grant politicians immunity for certain actions while in office, but should criminal acts be subsidized by campaign contributions? Is this sound public policy, to reimburse politicians' attorney fees for their criminal, even felonious, actions? Where is the deterrence in a fine if someone other than the wrong doer pays the fine? Do you think for a moment this is what the campaign donors had in mind for the funds they contributed? Is this what we expect from our lawmakers? To allow politicians to use campaign contributions for these transgressions is incomprehensible.

If we continue to allow campaign contributions to be used for general purposes or personal purposes, we must answer, how is it different from ordinary income? How is it not a bribe? Why do we allow them to be called campaign contributions?

7. *War chest prohibition* : Campaign contributions, not legally expended on those enumerated items by the end of that election, shall, within 40 days of the election, be paid to the *public domain*, whichever treasury pays the salary of said elected official. It shall be a felony to retain all or part of proceeds saved in any account (campaign war-chest,) or transfer proceeds to a political party or another candidate, before being sworn into office.

The concept proposed is that contributions should be spent in the campaign cycle in which the donation occurred. And only by the politician to whom the money was given. Not later. Not on some other agenda. Not on someone else's campaign. And certainly not for personal purposes after retirement. **Public policy** would dictate that those elected in each election cycle should be responsive to the electorate. They should not be insulated from the electorate by the aggregation of a huge chest of funds. They should not have a

huge accrued financial advantage over new challengers. It is egregiously offensive to public policy if transgressions in office further reward and insulate incumbents against the meritorious challenger. Too often established politicians never leave Washington or rarely find their way back home. Things change, needs of constituents change, economies of the home scene change. Why insulate politicians from these changes of constituents? How is this a good thing?

Most feel that term limits are a good idea for politicians. What is the point to term limits if they are allowed to amass and retain large war chests when in office? Why allow politicians to keep campaign funds, and after we forget about it, to use them for personal purposes? If these funds can be used for such personal purposes, why call them campaign contributions?

Why allow them to set up bogus charitable foundations to "employ" friends, momentarily unemployed politicians and relatives for apparent "jobs"? Why allow them to give funds to another politician? If campaign funds aren't legally used (for the enumerated expense categories) and then only in reasonable and necessary amounts, why should they remain in the custody and control of a politician at the end of the campaign? Unused campaign funds should be returned to the public treasury. Apportionment and refund to the donors would be an accounting nightmare. But to pay directly to the public treasury might make politicians less foolish with apportionment and spending of public funds. Would any other place be a better repository for such unused funds? In any case, allowing them unfettered discretion with vast sums of unused campaign contributions or allowing them to retain such funds at the end of their career raises the question: How is this not a bribe?

Would it not be better policy to start each campaign cycle afresh, with a more level playing field? Incumbents will still have contacts with government and contacts with political parties. They are still ahead of most challengers. Isn't this a big enough advantage for them? If unused campaign contributions are not returned to the public coffers, the result is simply permissive payola. Freedom to convert campaign contributions into personal use is not freedom of speech. Nor is it freedom of expression. It is freedom to distort the political process. It is nothing but "*the appearance of impropriety*" that the Supreme court has forbidden in *Buckley v Valeo*, and *McConnell vs. FEC*.

8. *Audit before taking office*: At the end of any election, for each candidate, an audit will be conducted of campaign income, campaign expenditures and disposition of all contributions not legally expended. They must pass such an audit before being sworn into office.

A problem of the present system is that no one checks on campaign wrongdoing in a timely manner so as to do anything about the wrongdoing. With the computerized record keeping proposed, it would be quite possible to do the necessary audits in the requisite time frame.

Why should our law makers be law breakers? This proposal serves to enforce these new limitations with meaningful sanctions: denial of office, and, where appropriate, mandatory jail time. The right to vote is something many of our ancestors died to create and protect. Perhaps vote fraud and distortion of representative government should be a capital offense, for why should political sorts pander away these valuable rights for

dollars?

Without tough sanctions, all the previous limitations are merely like words of politicians: pointless hot air. So let us forget “ethics charges“, this is merely a delay tactic and a loophole; political grandstanding. Labeling these ethic violations, without real sanction and causing another trial in criminal court is a supreme waste of taxpayers time and money.

Perhaps upon a grand jury finding probable cause, the politician should be turned out of public office (without pay or generous benefits and with prompt forfeit of ill-gotten funds) so they might concentrate on their defense. Perhaps they should not be granted a trial before a jury of their peers (the Senate) for that body is too completely corrupted for the general welfare. But, in any case, a conviction for campaign funds abuse should be cause for prompt removal from office, a future ban from holding public office, or work within government, a mandatory jail term and a permanent bar from lobbying.

9. *Pardons. Power to Pardon especially of political crimes should limited to executive petitioning for pardons, upon showing of merit, to be decided by the relevant supreme court.* The present system allows presidents and governors of most states to pardon crimes, including those of political nature, usually in ways that are behind closed doors. Leaving pardons in the hands of the executive branches of our governments is simply not sound policy. In the state of New Hampshire pardons are not in the hands of the governor, but handled in Supreme Court in open session, hence insulated from demands for campaign contributions. Why is this sound policy only in New Hampshire? In the interest of saving of energy and the time of our public servants, let us enact these limitations to protect our politicians from accusations of impropriety.

An absolute ban on cash contributions will conflict with the freedom of expression, implicit within the freedom of expression found in the Bill of Rights. **Public finance** of the election process is an unsound policy. This would doubtless lead to political control of the funds in ways unimaginable. Regulation, accounting, and administration of these funds would be in the hands of politicians and their appointees, and would be beyond public view, and hence control would be within the hands of those in office. One need only look at how politicians handle our federal budget.

John Mc Cain’s lament in 2010 that Citizens United vs. The Federal Election Commission means that campaign finance reform is dead is silly, indeed simply stupid. It is a failure to distinguish between two quite different things:

- (1) Limitations on direct contributions to candidates **{freedom to bribe}**. These limitations are still untouched and viable.
- (2) Limitations of people and corporations to be heard on issue advertising **{freedom of speech}**. Such limitations are barred by freedom of speech.

Note carefully the decision did not touch the various state and local limitations on direct campaign contributions to individual candidates. *Issue advertising* is quite different. The recent decision deals only with issue ads and holds that freedom of speech will not permit limits on advertising expression.

Conclusion: The only possible solution to this apparent conundrum of *campaign finance reform* is the prohibition of the sale of economic privileges by our politicians. With such a ban, what will motivate the business types and corporate entities to squander obscene amounts of lucre on politicians if the politicians are unable to deliver economic privileges?

Think of the cleansing effect upon the political process this prohibition on the sale of economic privileges would bring. What would politicians have left to sell? This would take much of the fun out of political corruption. Best of all it is automatic: no need for messy and inefficient regulation or prosecution. Police the ban on economic privileges and all the slimy and behind the scene dealings and complex money transfer schemes, all the corporate shell games will simply disappear. Let us excise the tumor before it metastasizes.

The beauty of a prohibition on grants of economic privileges is this: **what will politicians have left to sell?**

The beauty of these proposals is that it will address the many of the excesses of lobbying. It attacks the problem at the root. The politicians will have nothing to sell. Lobbyists will have nothing to buy. Their activities will be limited to policy research and arguing the merits of different courses of legislation. With the notion of sale of privileges off the table, and with clearly defined limits on campaign finance and political war chests, lobbying will be out of the money game, and out of the executive manipulation game. Such behaviour should be clearly criminalized, and sharp clear lines of demarcation will make prosecution easier.

The campaign finance limitations expressed above are reasonable and are equally affordable to all citizens. Those who wish to spend more may do so through political action groups, but not by making direct monetary contributions to any candidate beyond these modest limitations. Without the aforesaid nine limitations on campaign finance, we face the enigma posed by John S Mill when he said:

“How can a representative assembly work for the good if its members can be bought?” (ibid)

Our original inquiry was, do we attract the wrong people to the political process or does the political process corrupt good people? The answer to this question is both. If the process corrupts good people, it is necessary to change the system. The 9 proposed limitations of this chapter will do just that.

As for solving the problem of the bad persons attracted into politics, this should and must be done by the election process. Removal of the right of politicians to sell economic privileges will probably remove much of the attraction of bad persons to public office.