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Money Changes Everything

Campaign finance rules have transformed politics into a sport of the rich. Toss the rules, and you'd get a better governor's race.

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By Thomas M. Keane Jr. | May 28, 2006

John Kerry has said the worst mistake he made in his losing presidential bid was accepting federal campaign dollars. The late Paul Tsongas once told me that the major impediment to his upstart 1992 campaign were contribution limits dating to 1974. And the 2004 presidential campaign was marred by 527 advocacy groups such as MoveOn or Swift Boat Veterans for Truth that sprang up in reaction to regulations restricting traditional political action committees.

Campaign finance rules were supposed to engender trust in the system, open up politics, and free it from the taint of money. Instead, we got the opposite. According to the Harris Poll, the percentage of people saying they have "great confidence" in Congress has dropped from 22 to

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10 over the last five years. Meanwhile, it has become easier than ever for incumbents to hold on to their seats. The pool of those who run -- hampered by fundraising limits and intimidated by the law's complexity -- has shrunk. In addition, money has become an ever-greater preoccupation, so much so that politics is turning into a sport of the rich. Witness this year's Massachusetts gubernatorial race, where four candidates are independently wealthy. We risk becoming an aristocracy -- an elected aristocracy, admittedly, but an aristocracy nonetheless.

So what's the solution? Even more regulation? Or how about just getting rid of it altogether? A few thoughtful commentators, such as Northwestern University's Martin Redish and former Federal Election Commission chairman Bradley Smith, have suggested the latter. Their mostly ignored arguments deserve a second look.

Our current system of campaign regulation got its start with the Watergate scandals. Most states have since followed the lead of the federal government. Massachusetts's version of the FEC, for instance, is the Office of Campaign and Political Finance (which recently issued an absurd ruling, since partially retracted, prohibiting politicians from answering political questions while on government property - akin to telling doctors they can't talk about medicine in a hospital).

Some of the federal and state rules are relatively innocuous, obliging politicians and interest groups to tell the public who gives them money and in-kind support. Most are burdensome, however, limiting who can contribute and how much, restricting when and how funds can be spent, and sometimes substituting public dollars for private money (something that Massachusetts tried in 2002 with its Clean Elections law and voters have since largely rejected).

Few have been happy with the results.

Some argue against campaign regulation on philosophical grounds -- any limits on spending, they say, are limits on speech. Still, one could understand the case for running roughshod over the First Amendment if the regulations actually gave us better campaigns and candidates. They don't. Every new rule, it seems, produces a perverse result.

For example, spending limits usually help incumbents, since those in office already benefit from free media coverage and name recognition. Equality, in this case, actually tilts the playing field. Limits on contributions also help incumbents, who tend to be better connected. What's more, they turn fund-raising into a full-time activity. In Massachusetts, where the limit is \$500, a \$10 million gubernatorial campaign would require a candidate to call and persuade a minimum of 20,000 people to write a check. No wonder politics has become a preserve of those wealthy enough simply to spend their own money.

And then there's the whack-a-mole quality of campaign regulation. Every time we put a kibosh on one activity, another pops up. That's what happened with those 527 advocacy groups. And today, with the pervasion of

Web-based communications, rules become easier to evade. (No doubt, a recent FEC decision largely exempting bloggers from campaign regulations will become another loophole in the 2008 presidential race.)

What would happen if we were to abolish the rules, leaving in place only one limitation - quick and public disclosure of all contributions and spending? It's a scary thought, particularly for a society that believes the solution to every problem is a new law. Yet why shouldn't the market for ideas be as free as the market for goods and services? True, it would require greater responsibility from us, as voters -- we, rather than an FEC or OCPF, would have to decide what is acceptable or not. But after all, isn't that what democracy is supposed to be?

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