

United States Senate

REPUBLICAN POLICY COMMITTEE

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What is at Stake for the Left and the Right (and the Middle)

Does "Campaign Reform" Mean "Control"?

Contrary to what you may have heard, "campaign finance reform" has almost universal appeal -- we speak, of course, of the popular catch phrase and not of any particular, concrete proposal that is written down in black and white. Actual bills often are strongly resisted, even if they have the ever-popular catch phrase written into their title (as most do).

Why isn't there more enthusiasm for actual "campaign finance reform" bills? There are a variety of reasons, but one of the more important is this: What some call "reform" can have an uncanny resemblance to control -- and many groups from across the political spectrum have had difficult and costly experiences with that form of governmental control. For example, consider the following cases in which groups from both the Left and the Right have had to fight costly court battles just so that they could speak freely about politics:

 **From the Political Left: Dr. Spock and the Survival Education Fund.** Before the 1984 presidential election, Dr. Benjamin Spock wrote to some 31,000 persons asking for their political and financial support for the Survival Education Fund. He said, "As the November presidential election approaches, [we] need to know your opinions on whether four more years of the Reagan Administration's military, foreign, and domestic policies will destroy all hope for nuclear disarmament, peace abroad, and economic justice. . . ."

Five years after the letter was written (*i.e.*, in 1989), the FEC sued, claiming that the letter was unlawfully paid for with general funds from a corporate treasury. Six years after the lawsuit was filed (*i.e.*, in 1995), the court of appeals held against the FEC. *Federal Election Comm'n v. Survival Education Fund*, 65 F.3d 285 (2d Cir. 1995).

 **From the Political Right: Christian Action Network.** In 1992, the Christian Action Network ran a television commercial and newspaper ads that the FEC claimed were unlawfully paid for with general funds from a corporate treasury. In the television ad, a narrator said, "Bill Clinton's vision for America includes job quotas for homosexuals, giving homosexuals special civil rights, allowing

homosexuals in the armed forces. Al Gore supports homosexual couples' adopting children and becoming foster parents. Is this your vision for a better America? For more information on traditional family values, contact the Christian Action Network."

The court of appeals held against the FEC. *Federal Election Comm'n v. Christian Action Network*, 92 F.3d 1178 (4th Cir. 1996) (per curiam), *summarily aff'g* 894 F. Supp. 959. See also, *Federal Election Comm'n v. Christian Action Network*, 110 F.3d 1049 (4th Cir. 1997) (ordering FEC to pay CAN's attorney's fees).

 **From the Political Left: the National Organization for Women.** The National Organization for Women sent three letters to the general public. One of those letters said, "A bad economy, coupled with an antagonistic Administration in Washington, poses an immediate and real threat to the economic rights of women everywhere. . . . The New Right, the Reagan Administration, and the Republican Party all thought that 'the ladies' would go away after the ERA deadline expired. Were they ever wrong!" The FEC sued, again alleging that corporate funds had been unlawfully used to advocate the defeat of an identifiable candidate. The FEC lost. *Federal Election Comm'n v. National Organization for Women*, 713 F. Supp. 428 (D.D.C. 1989).

 **From the Political Right: Tax TRIM.** The FEC charged the Central Long Island Tax Reform Immediately Committee with printing and distributing fewer than 10,000 newsletters (at a cost of \$135) without complying with FECA's filing and disclaimer requirements. The newsletter did contain a voting record of the local congressman (showing 24 votes) as well as the Committee's views on government, which said in part, "Your Uncle Sam is a tax glutton. He's never satisfied with little tax snacks. He wants a banquet and always at the expense of taxpayers and consumers. To see what his gluttony is doing to you, take a good look at your check stub the next time you get paid. . . . Uncle Sam has become too fat, too bossy, and too wasteful to be allowed to continue in his tax gluttony. The answer: Put Big Government on a diet; TRIM away the bureaucratic blubber, and reduce the heavy load of taxation. . ." The FEC lost again in *Federal Election Comm'n v. Central Long Island Tax Reform Immediately Comm.*, 616 F.2d 45 (2d Cir. 1980).

 **From the Political Left: AFSCME.** The American Federation of State, County, and Municipal Employees spent \$984 to publish and circulate a "Nixon-Ford" poster that depicted then-President Gerald Ford wearing a button reading "Pardon Me" and embracing former President Richard Nixon. The poster also contained a line from one of President Ford's speeches. The FEC claimed that AFSCME had failed to report the expenditure as required by FECA. The FEC lost the case. *Federal Election Comm'n v. American Federation of State, County, and Municipal Employees*, 471 F. Supp. 315 (1979).

Can it be surprising that many persons and groups from all across the political spectrum shy away when they hear calls for campaign "reform"? In their experience, campaign "reforms" have led to attempted censorship of their political speech.