

DELAAY, and JOHN BOEHNER—summoned business leaders to a dinner to chastise them for donating money to Democrats and suggest that if they continue to do so, they would no longer have access to Republican leaders.

This is a quote—"Companies that want to have it both ways," said one top GOP strategist, "no longer will be involved in Republican decisionmaking or invited to our cocktail parties." They also demanded that the company fire all of its Democratic lobbyists and replace them with Republicans. A GOP leadership insider said, "If companies send lobbyists to Republican offices, they will have GOP credentials or they won't be allowed in the room." NRCC Chairman John Linder said, "We're going to track where the money goes."

Mr. President, what does that mean? What are the implications of "money"? What do they mean when they say business leaders who contribute to Democrats will no longer be involved in Republican decisionmaking?

Here's another passage from Roll Call, October 30, 1995.

Upon winning control of the 104th Congress, Congressman John Boehner, chair of the House Republican Conference, organized a leadership/lobbyist operation to help pass the Republicans' budget plan. Business lobbyists contributed at least \$2,000 toward an advertising campaign to support the Republican budget. "In exchange, they got a seat in the inner circle that met every Monday in one of the Capitol's . . . meeting rooms."

So \$2,000 for a seat in the inner circle meeting every Monday in the Capitol's meeting rooms.

Here's another example from Time magazine, March 27, 1995. Mr. Boehner also organized the Thursday group of "lobbyists representing some of the richest special interests in the country." The Republican leadership let these lobbyists use congressional office space and official resources to conduct their bill drafting and lobbying activities. The Thursday group served as command central for a million dollar campaign to enact items in the Contract With America. On tort reform, the group's efforts included "daily meetings of dozens of lobbyists on the seventh floor of the Longworth House Office Building, a budget of several million dollars raised under the guidance of a General Motors executive, and a vote-counting operation that was led by former top lobbyists for Ronald Reagan and George Bush."

Here is yet another example, this time from the Washington Post and Legal Times, dated October 29, 1996, and September 16, 1996, respectively: "Gingrich ally and foreign agent Grover Norquist's Americans for Tax Reform received a \$4.6 million contribution from the RNC in October," 1 month before the election, "in October 1996 * * * the RNC contributed \$4.6 million to the tax-exempt Americans for Tax Reform, which is headed by Gingrich ally Grover Norquist. Because it is not structured as a political committee, ATR is not required to disclose

how it spends the money, as the RNC is. This \$4.6 million in 'soft money' could be used by ATR directly on behalf of federal candidates—which would be scored as 'hard money' if spent by the RNC. Grover Norquist is a close ally of Gingrich and is also registered as a foreign agent for the Republic of Seychelles, and Jonas Savimbi, rebel leader of the National Union for the Total Independence of Angola."

Mr. President I could go on and on.

Perhaps I will end with this one just received yesterday: 1997 RNC Annual Gala, May 13, 1997. Cochairman—for a \$250,000 fundraising requirement, you get "Breakfast and a Photo Opportunity with Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich on May 13, 1997." You get a luncheon with "Republican Senate and House leadership and the Republican Senate and House Committee Chairmen of your choice."

I am still reading from the document. You get a luncheon with the chairmen of your choice if you are willing to donate \$250,000. If you only donate \$100,000, you still get a luncheon with the chairmen of your choice, and you still get a breakfast and photo opportunity with "Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich." You do not get dais seating. For \$45,000, amazingly, you are still entitled to lunch with the chairmen of your choice.

Mr. President, we do not need that. We do not need that in this institution or in our political system. This has to end. This will not go on without ultimately and directly affecting the quality and the historic standing of this institution.

Now let me address the last issue, and that is the constitutional issue. Mr. President, I have to say it is the hardest one. It is the hardest because there are a lot of people whose judgment I respect who are not willing to go as far as I am. But it is hard for me to understand what the Supreme Court said in Buckley versus Valeo. On the one hand, they said it is all right to limit how much you give; on the other hand, it is not all right to limit how much you spend. Why? If we are worried about free speech, why is it appropriate to limit giving but not limit spending? What is the constitutional premise that allows us to say we can limit how much you give, but we cannot limit how much you spend? It seems to me that once they decided to limit how much you give, they set themselves up, as well, for limiting how much you spend.

New York University law professor Ronald Dworkin and 40 other scholars wrote in a joint statement, "We believe that the Buckley decision is wrong and should be overturned. The decision did not declare a valuable principle that we should hesitate to challenge. On the contrary, it misunderstood not only what free speech really is but what it really means for free people to govern themselves."

The decision in Buckley and Colorado are a threat to the principle of one person, one vote. There are Senators who disagree, and there are many, many ways with which to express that disagreement. But I will say this: No one is guaranteed free money. Mr. President, free speech is not the same as free money. It is no more right for us to stand up in indignation with all of these problems and to say there is no problem, or that if there is a problem, we cannot address it because of the free speech argument on this issue.

Mr. President, we have limited speech in other ways. We have limited even the right of advertising in ways that have been demonstrated to be constitutional. When was the last time you saw a cigarette ad on television? When was the last time you saw ads for drugs on television? Obviously, there are restrictions on free speech. We all know that you cannot falsely yell "fire" in a crowded theater. Mr. President, I do not buy the argument that we cannot carefully restrict speech, because we restrict speech all the time.

I am out of time, and I know the distinguished Senator from West Virginia is about to speak as is required by the order. We will return to this issue again.

Let me close by saying we also know that this legislation, this amendment, is not going to pass. But we also know that there will be another day. There will be another day to offer bipartisan campaign reform legislation from a statutory perspective. I intend to be as aggressively supportive of that as I can be.

Let me say that this issue will not go away, not when our sons and daughters will be spending \$145 million in the year 2025 just to walk in this door and vote.

I yield the floor.

THE PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. has arrived. The Senator from West Virginia is recognized to speak up to 30 minutes.

Mr. BYRD. Mr. President, I thank the Chair. I commend our leader who has just spoken. I agree with him, as I shall elaborate at this point.

THE HOLLINGS CAMPAIGN EXPENDITURE CONSTITUTIONAL AMENDMENT

Mr. BYRD. Ralph Waldo Emerson, in an oration delivered on August 31, 1867, said:

This time, like all times, is a very good one, if we but know what to do with it.

"This time, like all times, is a very good one, if we but know what to do with it."

As the Senate considers the proposed constitutional amendment offered by our distinguished colleague from South Carolina, Senator HOLLINGS, it is my fervent hope that each of us takes heed of Emerson's portentous words.

We have an opportunity to take an important step in the direction of restoring the people's faith in our ability

to rise above partisanship and really do something about our present system of financing Federal campaigns. It is rotten. It is putrid. It stinks. The danger, as always, is that we will "circle the wagons," and avoid taking legal action aimed at meaningful reform.

Mr. President, as each day dawns, the public is confronted with new and increasingly garish allegations concerning the campaign financing practices that have become a way of life in our Nation.

Mr. President, we may be able to fool ourselves, but the time has come for all of us to stop trying to fool the American people. They are more than aware that both political parties—both political parties, not just one—abuse the current system and that both political parties fear to change because they don't want to lose their own perceived advantages. One party perceives certain advantages, and the other party perceives different advantages to its cause. But the insidious system of campaign fundraising and the increasing awareness by the people of our unwillingness to change it, will eventually lead to the destruction of our very system of Government. For our own sakes and for the sake of our people we must find ways to stop this political minuet, and come to grips with the fact that we can't have it both ways. We can't continue to launch broadsides at each other and refuse to admit that we all bear the blame—all of us, in both parties. We have it in our power to change things and the excuses we creatively craft to duck that responsibility are utterly hollow and quite transparent.

The incessant money chase that currently permeates every crevice of our political system is like an unending circular marathon. And it is a race that sends a clear message to the people that it is money—money—money, not ideas, not principles, but money that reigns supreme in American politics. No longer are candidates judged fit for office first and foremost by their positions on the issues. No longer are they judged by their experience and their capabilities. Instead, potential candidates are judged by their ability to raise the millions, and tens of millions of dollars, and even hundreds of millions of dollars that it takes to run an effective campaign.

The average cost of a U.S. Senate race is \$4.5 million. When I first ran for the U.S. Senate in 1958, I ran with Jennings Randolph, as the two candidates for the Senate. We were two candidates for two different Senate seats from West Virginia. Jennings Randolph ran for the 2-year term, the unexpired term of the late Matthew Mansfield Neely. I ran for the 6-year term. Each of us won the nomination, and then after the primary we joined together and we marshaled our monetary forces, which amounted to something like \$50,000—\$50,000 for two Senators. And that was more than had earlier been necessary in campaigns in West Virginia. We didn't have much television in those

days. We didn't have political consultants. And so we ran on a war chest of \$50,000. But the average cost of a U.S. Senate race today is \$4.5 million. It can cost \$10 million or \$20 million or more to run for the Senate in some parts of the country today.

Now, how in the future can a poor boy from back in the sticks of West Virginia, or any other State, hope to become a United States Senator? How can a former welder in a shipyard, a former meatcutter in a coal mining community, a former produce salesman, a former groceryman—how can one hope to ascend the ladder to the high office of United States Senator? It will be beyond the means of such persons.

The American people believe that the way to gain access and influence on Capitol Hill is through money. And the American people are exactly right. The way to gain access on Capitol Hill, the way to get the attention of Members of this body is through money. The Bible says, "The love of money is the root of all evil." This campaign system that we now have bears that out.

Anyone who reads the daily newspaper would have no trouble coming to the conclusion that the best way to gain access to the White House is to be a so-called "fat cat contributor." Now, who can fault such logic? It is as plain as the nose on your face. We have to stop this madness. We must put an end to the seemingly limitless escalation of campaign costs and their pervasive influence of the special interests and the wealthy. We must act to put the United States Senate, the House of Representatives, and the Presidency of the United States back within the reach of anyone with the brains, the spirit, the guts, and the desire to want to serve. And the proposed constitutional amendment before us today is a necessary step on the way to accomplishing that goal.

Now, I am aware that opponents of this measure—and they have a right to their opinion—would say that it would be wrong to amend the Constitution in this fashion. They will say that, although I may be right about the need for change in our current fundraising system, I am just wrong about this proposed amendment. I am very reluctant to amend the Constitution, but I am not above amending it. The Constitution contains a provision, as we all know, that was included by the framers of that document that points the way and is the guide, the roadmap to amending the Constitution. It is well known that I believe that we tinker with the careful checks and balances of that document at our peril. But a Supreme Court decision in *Buckley versus Valeo*, a decision which I believe to be flawed, has all but doomed the prospects for comprehensive legislative reform of this campaign finance system otherwise. By equating campaign expenditures with free speech, *Buckley versus Valeo* has made it impossible for us to control the ever-spiraling money

chase and to put anything but voluntary spending limits on Federal campaigns. This basic inflexibility makes any legislation intended to control the cancerous effects of too much money in politics complicated and convoluted. The contortions such legislation has to resort to, simply because we cannot mandate spending limits, create new opportunities for abuse as fast as we attempt to close down the old ones.

How do we pass any statute—any statute of consequence, that is—when the Supreme Court has told us that spending equals speech? Spending equals speech. Well, if that is the case, I don't have the equality of free speech that many Members in this body profess.

How do we place any kind of reasonable limit on fundraising and spending when the law of the land says that to do so violates the first amendment of the Constitution? How do we end \$40 million Senate campaigns and \$400 million Presidential campaigns when the Supreme Court tells us that those amounts are constitutionally protected? How do we really reform the system within the bounds of that judicial interpretation? The plain truth is that it cannot be done effectively unless we do amend the Constitution.

We can tinker around the edges, of course. But we cannot enact comprehensive legislation that will get at the heart of the problem. We cannot, consistent with the Court's ruling in *Buckley versus Valeo*, put an end to the hundreds of millions of dollars that are raised in "soft money" contributions, or the hundreds of millions of dollars that are spent through so-called "independent expenditures." I wish we could. But the fact is that we cannot get the kind of legislation we really need unless we first pass an amendment to the Constitution which nullifies *Buckley versus Valeo*.

We have heard the first amendment invoked in *Buckley*. We have heard the argument that we must not infringe upon freedom of speech. I believe that a continued failure to control campaign costs is actually what is injurious to free speech for all in political campaigns. Money has become the great "unequalizer"—the great "unequalizer"—in political campaigns. Money talks. Money talks, and a lot of money talks louder than a little money. Would anyone claim that the average citizen or the small contributor has the same access to, the same influence with, politicians as the major contributor or the big PAC representative? Well, take it from me, he doesn't. Whose opinions are heard? Whose free speech is heard? Whose "speech" gets through to the people who count in Washington?

In the case of elections, who is more likely to win but the candidate who can buy more TV time, the candidate who can afford more publicity, a bigger staff? So much for free speech. When it comes to our political system, speech is very, very, very expensive indeed.

In a very real sense, Buckley versus Valeo disenfranchised those of moderate and less than moderate means from having their views heard and weighted equally with those who can afford to contribute huge sums.

Who would stand here on the floor and tell me that the money that a poor coal miner is able to contribute will entitle that coal miner to the same freedom of speech and the same influence with his representatives in Washington as the wealthy can enjoy?

In a very real sense, Buckley versus Valeo, as I say, disenfranchised those of moderate means, the individual who works with his hands, who earns his bread by the sweat of his brow. He can't speak loudly enough to be heard in the corridors of his representatives in Washington.

The influence of money has completely contorted the intent of the first amendment when it comes to our political system. And Buckley versus Valeo has written that contortion into our organic law.

Additionally, Buckley versus Valeo further disenfranchised those who might endeavor to run for political office because it makes it practically impossible for most individuals to afford to run for office themselves unless they are either independently wealthy or a well-financed incumbent. What is that but an effective denial of the basic right of any capable, motivated citizen to stand for Federal office? And what is that but the setting up of classes of citizens, some of whom have more basic rights, some of whom have more freedom of speech because they have more money than others? It is nonsensical.

I believe that the Court in recent years, beginning with Buckley versus Valeo, has been far too dogmatic when it comes to the first amendment. First amendment rights are not absolute. Ever since Mr. Justice Holmes wrote that the right of freedom of speech does not include the right to falsely shout "fire"—it is all right to shout "fire" in a crowded theater if there is a fire. So there is a distinction. The right of freedom of speech does not include the right to falsely shout "fire" in a crowded theater. Ever since Mr. Justice Holmes wrote that, we have realized that there must and can be certain limitations on free speech. Certainly when there is a compelling Government interest in the prevention of corruption or the appearance of corruption, the Court has generally understood that limitations can be imposed. There could be few instances in which a compelling governmental interest in preventing corruption is more obvious than the example of the bedrock of our representative democracy—fair elections.

As the Court said in *Gibney versus Empire Storage and Ice Co.*, "... It has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initi-

ated, evidenced or carried out by means of language, spoken, written or printed."

So, Mr. President, when it comes to modern political campaigns, it is only when there are no mandated expenditure limits that an inequality in free speech arises. The only real way to correct that inequity is to mandate limits on campaign expenditures. If the rules of the game are equal for all and fair to all, then no one is at a disadvantage simply because of purchasing power.

Mr. HOLLINGS' amendment would begin to correct the mechanistic, sterile jurisprudence that has reared its head in recent Court decisions regarding the first amendment and set us on a more correct course. The various ingenious forms of modern campaigning with their outlandish expenditures were never contemplated by James Madison and the other framers of the Constitution—never contemplated.

Only a blatant disregard for the obscene disadvantage which money can convey when not controlled in a political campaign could cause one to turn a blind eye to the need to respond to violence done to our Republic by a continued failure to put some limitations on campaign expenditures.

Mr. President, the time has come to stop. We have tried the legislative course. When I was majority leader during the 100th Congress, I tried eight times—eight times—to break a filibuster against campaign spending reform.

Robert Bruce, the great leader of the Scots, tried seven times, and it was after the seventh time—as he had lain in the loft of a barn and seen the spider attempt to spin his web from rafter to rafter, it was on the seventh time that the spider was successful in reaching the rafter—we are told that gave Robert Bruce the spirit and the inspiration and the faith he could try the seventh time and win. Well, I tried eight times. I was not successful in breaking the filibuster. I tried more times to invoke cloture than any leader has ever tried. It would not work. It is not going to work the next time.

The time has come to stop. It is time to set aside the partisan bickering, the constant sniping, the ceaseless one-upmanship, and the incessant covering, and do something that will give us the powers necessary to get at the root of the problem. Hiding behind the first amendment will not work. If we continue to try to hide behind the first amendment, we are going to destroy the trust of the people in our Government, in our system of Government. That is a system that is based on the people's trust.

It is not valid to hide behind the first amendment. This is about allowing more freedom of speech than less. It is about returning Government to the man in the street, to the woman who rocks the cradle and makes a home. Give them freedom of speech. It is about returning Government to that man and that woman and getting it out

of the corporate boardrooms and the country clubs.

Fear is a very terrible thing. It is terrible because it paralyzes. Fear clouds judgment. Fear of losing advantage is what has driven both parties' reluctance to enact meaningful campaign finance reform in the past, and that same fear is what is driving the current reluctance. But the fixation with maintaining advantage is blinding us to a much greater and more serious peril: the total loss of credibility. Credibility is a precious commodity. We politicians have collectively squandered our credibility over the last several years because of the unchecked rise of the influence of money in politics. Already our people do not vote. They do not vote because they think politicians are all the same and that an individual vote does not matter anymore. Politicians are not trusted because all that concerns them, at least to the perception of the average citizen, is money and winning the next election.

I served as majority leader from the years 1977 through 1980 and again in the years 1987 and 1988, and I served as minority leader during the 6 years in between. It was a constant problem to be a leader and to program the Senate and to operate the Senate, and became increasingly a problem because of the money needs, the needs of the money chase. Senators had to go here; they had to go there; they had to raise money; they had to go for lunch; they had to go for dinner; they had to spend overnight. And it was virtually impossible to schedule votes at any time that would please any and everybody.

The thing that seemed to be most needful in this Senate during those years that I was the leader of my party was money, running around the country with a tin cup in one's hand raising money for a little, measly \$134,000-a-year job. It is the most demeaning aspect of our lives as Senators, to have to run around and raise money. And it is getting worse.

The very fiber of what holds a Republic like ours together—trust—is ripping audibly with each new scandal, each new revelation in the press. And so I ask my colleagues to turn away from that course. We can start today. We can use what appears to be a low point in American politics to take an important step toward the good. We can remove this obstacle to real reform, crafted by a wrongheaded Supreme Court decision, and restore some precious equality to our political system.

Mr. President, I compliment the distinguished Senator from South Carolina, who is our leader in this effort. We probably won't win today. But it will be to the American people's loss. "This is a good time," as Ralph Waldo Emerson said, "if only we know what to do with it." Let us not squander an opportunity to begin to fix this thoroughly rotten campaign finance system once and for all. Let us not continue to disappoint the American people out there.

I urge my colleagues to take a stand and support this proposed amendment to the Constitution.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S.J. Res. 18, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (Senate Joint Resolution 18) proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. There will now be 1 hour equally divided between the Senator from Kentucky [Mr. McCONNELL] and the Senator from South Carolina [Mr. HOLLINGS].

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me first thank Senator BYRD our resident Senate historian. I do not say that lightly—because the distinguished Senator from West Virginia has been masterful in his analysis and been very, very cautious and careful. He has stood many a time for not amending the Constitution, that we don't do this, willy-nilly, for any and every problem. But, after 20 years, thousands of speeches and hours and effort made, he has given a very masterful analysis of the need for this amendment. The Senate and the Nation are indebted to him.

Mr. President, I ask unanimous consent that Senator DODD, of Connecticut, be added as a cosponsor.

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

Mr. HOLLINGS. Mr. President, although I commend the efforts of the minority leader and others seeking to statutorily reform our campaign finance laws, I am convinced the only way to solve the chronic problems surrounding campaign financing is reverse the Supreme Court's flawed decision in *Buckley versus Valeo* by adopting a constitutional amendment granting Congress the right to limit campaign spending.

We all know the score—we are hamstrung by that decision and the ever increasing cost of a competitive campaign. With the total cost for congressional elections, just general elections, skyrocketing from \$403 million in 1990 to over \$626 million in 1996, the need for limits on campaign expenditures is more urgent than ever. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending with bills aimed at getting

around the disjointed *Buckley* decision. Again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have become bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a constitutional amendment to limit campaign expenditures. In May 1993, a non-binding sense-of-the-Senate resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and States to limit campaign expenditures.

Now it is time to take the next step. We must strike the decisive blow against the anything-goes fundraising and spending tolerated by both political parties. Looking beyond the current headlines regarding the source of these funds, the massive amount of money spent is astonishing and serves only to cement the commonly held belief that our elections are nothing more than auctions and that our politicians are up for sale. It is time to put a limit on the amount of money sloshing around campaign war chests. It is time to adopt a constitutional amendment to limit campaign spending—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the *New England Law Review*, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in *Buckley* is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated."

Right to the point, back in 1974, Congress responded to the public's outrage over the Watergate scandals by passing, on a bipartisan basis, a comprehensive campaign finance law. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awarded office to the highest bidder or wealthiest candidate.

Unfortunately, the Supreme Court overturned these spending limits in its infamous *Buckley versus Valeo* decision of 1976. The Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court came to the conclusion that limits on campaign contributions but not spending furthered "the governmental interest in preventing corruption and the

appearance of corruption" and that this interest "outweighs considerations of free speech."

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. The Court made a huge mistake. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by the *Buckley* decision.

After all, as a practical reality, what *Buckley* says is: Yes, if you have a fundraising advantage or personal wealth, then you have access to television, radio and other media and you have freedom of speech. But if you do not have a fundraising advantage or personal wealth, then you are denied access. Instead of freedom of speech, you have only the freedom to say nothing.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking between \$1,000 and \$2,000 for 30 seconds of primetime advertising. In New York City, it's anywhere from \$30,000 to \$40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without a fundraising advantage or personal wealth are sidetracked to the time-consuming pursuit of cash.

The *Buckley* decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only \$50,000 to spend in a race and I have \$1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to *Buckley*. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."