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January 17, 2016: The Push Back Against Ending Campaign Contribution Limits

Bruce Ledewitz

Duquesne University, ledewitz@duq.edu

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Title: The Push Back Against Ending Campaign Contribution Limits

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1/17/2016—I now understand better why there is such a reaction against my proposal to end campaign contribution limits. The pushback I am describing is continuing exclusion of my ideas from books on campaign finance reform and symposia on the same topic. I thought my presentation at Cleveland State last spring was the end of that problem but I now see that that is not the case.

My goal is to end independent political spending. I consider independent spending, rather than contributions to political parties and candidates, to be the real problem of money in the United States. Once contribution limits are ended, candidates and voters can demand that independent money go to candidate campaigns instead.

Now, many people would agree that, given the current context of unlimited contributions to Super PACs, politics in the US would improve if all this money went to candidates instead. So, my plan would be better than the current situation. But promoters of campaign finance reform absolutely refuse to consider my plan as even a temporary move. Why?

I now realize that many people who share my view of the domination of public debate by the interests of the 1% expect to return to a legal regime of general contribution limits and maybe even spending limits (although we have never really had that). So, David Cole, Georgetown Law Professor who now seems to have the old Ronald Dworkin gig at the New York Review of Books, writes in a letter exchange with Burt Neuborne in the December 17, 2015 issue, “When the Supreme Court revises First Amendment doctrine to permit greater regulation of campaign finance—and I do mean when, not if... .” And the Brennan Center has just released a report entitled “5 to 4” that shows how different the law of campaign finance would be if only one vote had changed on the Supreme Court.

People in this mind frame are like Christians expecting the second coming. They cannot be convinced to do anything that would detract from utopia. Ending contribution limits would therefore amount to “surrender”—another term that has been used in excluding my work.

There is a lot going on here and it is hard for me to describe it simply. For one thing, partisans in the finance wars have never specified just what the end game actually is. Forgetting free speech protections for the moment, just what would be the ultimate system of campaign regulation? It is easy for me to see that no structural innovation can end the power of wealth—what David Cole calls in his review of Neuborne’s *Madison’s Music* book, “big money.” The only hope for doing that is a political response. Revitalizing politics by making the candidates the focus is a first step in that direction. Any structural change will just turn independent ads into “issue ads.” The same people who now run independent campaign ads would be running independent issue ads against Obamacare and the Iranian deal. There needs to be a place for this money to go where it participates in the political process rather than replaces it.

And that is why ending contribution limits is a better way forward than any other innovation. The fact that it is the one step that is consistent with current law just means it is also the easiest step to take. But I doubt I can convince campaign finance reform proponents of that.