Freedom Of Speech And Healthy Campaigns Essay, Research Paper

What we have here is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can’t have both.

House Minority Leader Richard Gephardt2

The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter.

Thomas Jefferson3

In the free society ordained by our constitution, it is not the government, but the people–individually as citizens and candidates and collectively as associations and political committees–who must retain control over the quantity and range of debate on public issues in a political campaign.

U.S. Supreme Court, Buckley v. Valeo4

A constitutional amendment to permit the imposition of campaign spending limits currently is being debated in the U.S. Senate. This proposed amendment addresses the core not only of the First Amendment, but of the electoral process that undergirds the entire system of U.S. government.

S.J. Res. 18, introduced by Senators Fritz Hollings (D-SC) and Arlen Specter (R-PA), would permit Congress (and states for state elections) to establish “reasonable” limits on campaign contributions and spending. Senate Minority Leader Tom Daschle is a leading proponent of the amendment. In the House, Minority Leader Richard Gephardt and others have introduced a campaign spending limitation amendment with more detailed restrictions on the collateral effects (on free speech and debate) of the limits.

Proponents of S.J. Res. 18 and similar measures argue that the amount of money spent in campaigns has become, in itself, a corrupting factor. They also complain about the amount of time required to raise funds for campaigns, about the tone of campaign ads, and about the unfairness of rules allowing wealthy candidates to spend unlimited sums of their own money while requiring other candidates to raise funds in small amounts.5

Advocates of the proposed amendment argue that our government has been shaken to the core by recent political scandals. Some even argue that our political system is rotten to the core. But the centrality of free speech to political liberty is not in dispute. S.J. Res. 18, were it adopted, would represent the first time an American government claimed the power to limit, and therefore to regulate and control, political discussion.

Since the time of ancient Athens, the right of open debate has been considered an essential element of self-government. As elections expanded the reach of democratic government beyond the confines of a single city, so freedom of the press expanded the right of free speech. U.S. courts have held consistently and logically that restrictions on spending for printing, mailing, or advertising are, in fact, substantial restrictions on the ability to communicate ideas. Without free debate, elections cannot be an effective means of self-government.

Are limits to be equal for every party; for well-known incumbents as for obscure challengers?

Are persons or groups other than candidates permitted to spend money for political advertising? If so, are candidates’ limits to be somehow equalized?

Are issue ads to be limited or forbidden? And who determines the difference between free speech and campaigning?

How is the government to be prevented from abusing its power to set limits that help the party or politicians in power?