



Maine Clean Elections News

P.O. Box 18187, Portland, ME 04112

www.maineclanelections.org

The Newsletter of Maine Citizens for Clean Elections • Vol. 3, Issue 2 • Summer 2010

More Speech Is Better

by John Brantigan

If the First Amendment to the Constitution could be reduced to a slogan, it would be “more speech is better.”

Americans value a marketplace of ideas where people speak out publicly, others respond, and we all benefit from the give-and-take of political debate. The First Amendment protects the fundamental principle that a robust exchange of ideas is essential for democracy.

New legal challenges to public funding systems in Arizona and Maine threaten that fundamental idea. In both states opponents are challenging “matching funds” provisions. Matching funds ensure that publicly funded candidates get additional campaign funding so that they can keep pace with any opponent who raises and spends more money.

But a small handful of die-hard opponents of campaign finance reform contend that privately funded candidates will refrain from spending their campaign funds if they know that an opponent would receive matching funds as a result. Their legal briefs argue that the First Amendment should protect

NEW ATTACK ON CLEAN ELECTIONS

On August 5th, the Maine Heritage Policy Center joined Indiana attorney James Bopp, Jr. in a lawsuit challenging the matching funds provision of Clean Elections. The suit also aims at eliminating the contribution limit for privately funded candidates for governor. MCCE is working closely with the Attorney General to defend our laws. Sign up at www.maineclanelections.org for the latest news.

them from ever having to make that strategic choice in their campaigns.

This is a badly warped view of the First Amendment. The First Amendment prohibits censorship by the government. It does not say anything about such strategic campaign decisions by candidates.

In our system true political speech is always valuable. The claim that political speech is a private harm rather than a public good simply cannot be

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Gubernatorial Primaries Prove Clean Elections Work

After much hand-wringing about possible funding shortfalls, the 2010 primary election proved once again that Clean Elections work! In the closely watched gubernatorial race, the revamped program worked very well in both the Republican and Democratic primaries where candidates faced a significantly higher qualifying hurdle for the first time.

Republican Peter Mills was the first gubernatorial candidate to qualify. Because of his high-spending opponent, Les Otten, Mills received the maximum in matching funds immediately. The winner of the Republican primary, Paul LePage, is privately funded.

Democrats Pat McGowan and Libby Mitchell both qualified for Clean Elec-

tion funding, while John Richardson fell short. Richardson abandoned his gubernatorial bid when the Ethic Commission uncovered serious problems with his Qualifying Contributions and denied certification. Steve Rowe and Rosa Scarcelli used private funding in their campaigns, and Scarcelli’s spending triggered maximum matching funds for Mitchell and McGowan. Libby Mitchell won the primary, becoming the fourth candidate to use Clean Elections in the general election and the first Democratic Clean Election gubernatorial nominee.

The Richardson episode kept Clean

Elections on the front page for many days. As the story played out, it became clear that the Clean Election system’s built-in accountability measures worked. Part of MCCE’s legislative agenda after the last gubernatorial election was to increase accountability, and we are very pleased that the changes worked so well.

With just one gubernatorial Clean Election candidate on the general election ballot, funding is sufficient for the gubernatorial and legislative races. With funding secure, candidates qualified, and everything working so well, the only problem on the horizon is the recently filed federal lawsuit. With your help, MCCE is working hard to prevent the court from disrupting the election cycle.

Sign up at:
www.maineclanelections.org

MCCE is a nonpartisan coalition of groups and individuals that works in the public interest to advocate for, increase public support for, defend and improve the Maine Clean Election Act and related campaign finance law.

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Court Upholds Maine Disclosure Laws

On Thursday, August 18, Federal District Judge D. Brock Hornby issued a judgment in *National Organization for Marriage (NOM) v. McKee*. The decision was a victory for Maine's democratic process and for transparency in our election laws.

In his decision, Judge Hornby upheld Maine's campaign finance disclosure laws and rules with two exceptions. He invalidated certain phrases after finding they were unconstitutionally vague, and he overturned part of the independent expenditure reporting law. Although he found these provisions to be unenforceable, he declined to grant NOM the injunction it sought, expressing confidence that the State would comply with the decision.

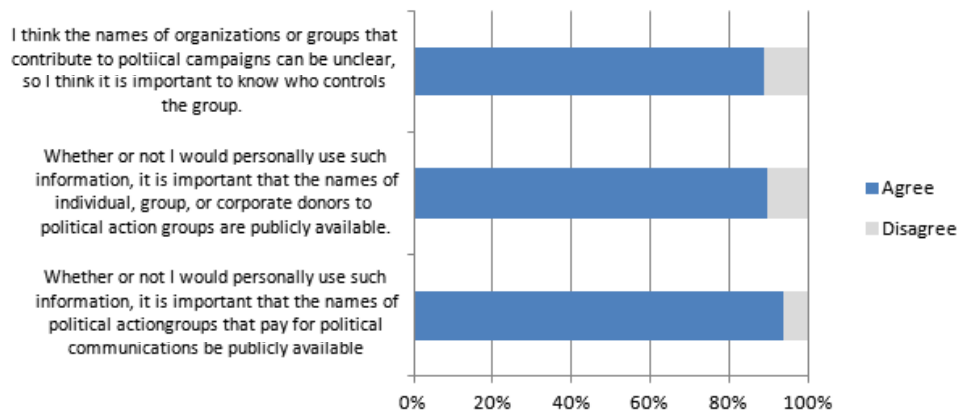
Losing part of the independent expenditure reporting schedule could have posed a problem in the current election, but the Ethics Commission quickly began emergency rulemaking. On Thursday, August 26th, just one week after the decision, the Commission approved a new rule that repaired the reporting schedule and addressed the Court's concerns. MCCE is confident that the new schedule will work well

in the remaining weeks of the election.

We are gratified by the Court's strong endorsement of the public's right to know who is behind political communications. Earlier this year, MCCE commissioned Critical Insights to conduct a poll and found that voters across all demographic groups strongly support transparency over confidentiality. In addition to making the poll available, MCCE filed an amicus brief in the case. Read the full text of Judge Hornby's opinion and the briefs filed by the state and MCCE at www.mainelection.org.

Unfortunately the fight is not over. NOM has already filed an appeal in the First Circuit Court of Appeals. Judge Hornby has yet to rule on whether NOM must reveal the identity of the donors who contributed to the fight against marriage equality last November. NOM's lawyer, Indiana-based James Bopp, Jr., recently filed a lawsuit, *Cushing v McKee*, challenging Maine's Clean Election matching fund system. Bopp represented the Right to Life groups in their unsuccessful challenge to Clean Elections in 1996 and is behind numerous similar challenges around the country.

Maine Voters Value Disclosure



MCCE Legal Seminars

MCCE's Co-chairs teamed up with former state representative John Brautigam to present Clean Election programs at several Portland law firms this spring. Preti, Flaherty hosted a breakfast, and Verrill and Dana hosted a brown bag lunch; both were well attended and lively. The programs began with a 10-year update on Clean Elections including the current *National Organization for Marriage* lawsuit. Brautigam, who led MCCE's legal team during the court challenges in the late 1990's, reviewed important litigation around the country that could affect our law.

If your law firm would like to host a similar program, please contact MCCE at info@mainelection.org or 831-6223.

Speech (continued)

reconciled with the First Amendment.

If (as the Supreme Court recently ruled) a campaign ad purchased by a corporation is the epitome of free speech, how can the same ad purchased by a candidate in a voluntary public funding program be an intolerable burden on free speech?

If more speech is better, then surely Clean Elections matching funds enhance Constitutional values and free speech and do not infringe upon anyone's rights.

For many years, following the evolution of law under the Supreme Court, the combination of disclosure for privately funded candidates and a viable public funding option was the accepted approach to reform. The Maine Clean Election Act is based on this approach, which courts and legal scholars said was constitutionally preferred. It provides resources to qualified candidates, reasonable limits on the size of private contributions, and complete transparency. The package as a whole reduces the opportunity for corruption and undue influence, ensures that political debate occurs on a level playing field, and provides important information to voters.

Now, even this compromise approach is in jeopardy. Indeed, there is no element of campaign finance systems – contribution limits, matching funds, public funding or disclosure – that is not under attack from a small group of opponents determined to roll back the clock to the sordid days of Watergate. In these days of increasing public skepticism of elected officials, much is at stake.

The Supreme Court has shown that it is increasingly eager to re-make the constitutional landscape in this area, so critical to our democratic process. Will the Supreme Court again move the goal line? The Arizona and Maine cases will provide the answer.

DONATE Today!

Join hundreds of Maine donors who support MCCE's critical work.

Go to
www.maineclipselections.org
 or mail a check to:
 MCCE
 P.O. Box 18187
 Portland, ME 04112

MCCE Delivers!

Thank you to everyone who made our Send Some Soap campaign so successful. We delivered an enormous basket of soap to the office of Senator Olympia Snowe on April 15, 2010. Each of the more than 500 bars carried your name and personal message. Senator Snowe couldn't help but get the message that Mainers want her to bring Clean Elections to Washington.



Letter From The Co-Presidents

MCCE is gearing up for the busiest fall ever. Yes, we are embroiled in two serious legal challenges, but we also intend to celebrate the first ten years of Clean Elections. While candidates knock on doors, kiss babies and debate their opponents, MCCE will hit the road for our 20/10 Tour. Along with some special friends from the first decade of Clean Elections, we'll visit with community organizations, local newspapers, friends and supporters. Please join us when we come to your area, and contact us if you'd like to help with local activities.

And mark your calendar for November 18th! Plan on joining MCCE in Portland for our grand 10th Anniversary Celebration. We've never put on a big party before, but ten years of success is worth celebrating! We'll let you know more about this event as the time nears. For up-to-the-minute news, make sure we have your current contact info – sign up at www.maineclipselections.org.

We are very pleased to welcome Caitlin Corrigan to the Maine Citizens for Clean Elections team. Caitlin is a fourth generation Mainer who brings several years of diverse campaign experience to her work at MCCE. Caitlin started her job as Outreach Coordinator in July.

And one more change at Maine Citizens for Clean Elections... this spring we took the step of incorporating as a stand-alone nonprofit organization. We thank the League of Women Voters of Maine Education Fund for serving as our fiscal sponsor for the last four years.

Ann Luther, co-president

Alison Smith, co-president

Rep. Pingree on Election Reform

by Congresswoman Chellie Pingree

In the last year, Congress has fought over a number of historic issues with impacts on all Americans, including healthcare reform, reining in Wall Street, and working to prevent another tragedy like the BP oil spill. While I'm glad to say we were able to take steps forward in all these areas, I wonder what we could have achieved if powerful lobbying interests hadn't exerted their influence to fight these reforms tooth and nail.

What would these debates have looked like if the voices of everyday citizens had had the same weight as lobbying interests for the oil industry, big banks and insurance companies that contribute mil-

ions to political campaigns every year?

Thankfully, enthusiasm and momentum for passing a Maine-style clean election system continues to grow in Congress. As I talk to my colleagues about the Fair Elections Now Act, more and more of them have agreed to support the legislation—160 currently are cosponsors in the House. Speaker Nancy Pelosi has committed to seeing that the bill goes through the committee process with a goal of getting it on the floor this fall. Interest is growing in the Senate as well.

The Fair Elections Now Act would create a voluntary system that limits Congressional campaign contributions to \$100, emphasizes grassroots support

and brings campaign finance reform into the 21st Century. The system would match donations from in-state supporters but not from Washington lobbyists.

The bill was carefully written to avoid the constitutional questions that are at the heart of litigation in Maine and other states. These recent court cases have made it clear that special interests are going to do everything they can to make sure that their voices are heard in Congress at the expense of regular people.

Nothing would make a bigger difference in Congress than changing the way we fund elections. As members of Congress continue to make critical decisions on health care, financial reform, and climate change, Americans deserve to know that their interest is what's at heart.

SAVE THE DATE

**Maine Citizens for Clean Elections
10th Anniversary Celebration**

**Thursday evening, November 18th
Portland, ME**

Details to follow.



- INSIDE:
- A Victory in District Court
 - What the primary results mean for Clean Elections
 - A report from Rep. Chellie Pingree
 - And Much More...

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