



Testimony before the Joint Standing Committee on Veterans and Legal Affairs

LD 189 – An Act to Prohibit Undisclosed Political Spending

Monday, February 23, 2015

Senator Cyrway, Representative Luchini and members of the Joint Standing Committee on Veterans and Legal Affairs:

My name is Ed Youngblood, and I am here today on behalf of Maine Citizens for Clean Elections. Maine Citizens for Clean Elections (MCCE) is a nonpartisan organization that works in the public interest to advocate for, defend and improve the Maine Clean Election Act and related campaign finance law. Whenever there is legislation relating to our campaign finance and reporting system, MCCE strives to represent the interests of Maine citizens in a truly representative and democratic system.

LD 189 would require certain non-profit entities involved in funding Maine's political campaigns to disclose their donors. We support this bill, and we commend Senator Saviello for bringing it forward.

Our campaign finance system is supported by three pillars: (1) public funding of elections for qualified candidates; (2) campaign contribution limits for privately funded candidates; and (3) disclosure for all candidates and political organizations.

Disclosure is absolutely vital to this system. Without disclosure, the public would not have the information needed to understand who is influencing our elections. Information about who is behind a political advertisement is very important when deciding how much weight and credibility to give to the campaign messages it contains. MCCE has sponsored a citizen initiative which will also enhance disclosure, although focusing on real-time disclosure in political advertisements.

As the United States Supreme Court wrote just five years ago, ". . . disclosure permits citizens . . . to react to . . . speech . . . in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages." At a time when so many decisions of the Court are 5-to-4 or 4-to-5, there were eight justices who agreed with the fundamental importance and constitutionality of disclosure in the *Citizens United* case. While MCCE strongly disagrees with other parts of that decision, we welcome the Court's endorsement of disclosure

Disclosure is also an important way to ensure that the other two pillars – public funding and contribution limits – are having their intended effect, and to ensure enforcement of the law.

The public in Maine and across the country strongly supports disclosure. Polls show that voters are nearly unanimous about the importance of ensuring that political spending is fully disclosed.

Maine has had reasonably good disclosure, so why do we need to amend the law? In the last few years the amount of “dark” or “shadow” money in campaigns has simply exploded. And the way it is raised and spent has changed dramatically. Secretive, special-interest money is finding new ways to influence elections and circumvent our reporting requirements.

Most of that money is moving through organizations that are tax-exempt under 26 United States code Section 501. We have all heard of 501(c)3 non-profit organizations, but there is a long list including 501(c)4, 501(c)5, and 501(c)6 organizations. Many of these organizations have a legitimate nonprofit mission, but in the wake of Citizen United, a vast network of these 501(c) organizations has sprung up whose sole purpose is to receive and dispense undisclosed political money. These shadowy organizations secretly funnel money into state campaigns. Our disclosure system and the public’s right to this information are now vulnerable because of the new role played by these organizations. But when LD 189 is enacted, they won’t be able to hide the money influencing Maine elections.

And let me be clear about one thing: This is not about Democratic money or Republican money. This is not about corporate money or labor money. We are as concerned about liberal groups such as Priorities USA and the Patriot Majority as we are about conservative groups such as Crossroads GPS and American Crossroads. All this money needs to be disclosed.

Information is the lifeblood of our democracy. We depend on information to exercise our most fundamental democratic right and obligation – to vote. The public needs to know who is behind expensive political advertisements, and this bill will help provide that information.

We do suggest one clarification in the bill. As drafted, LD 189 makes it clear that political party committees and out of state political action committees have to reveal information about who is funding these 501(c) organizations. We suggest an amendment to Section 5 of the bill making it clear that in-state political action committees have the same requirement. They have to collect the information under Section 3 of the bill, so why not report it? We are not aware of any reason why they should be treated differently, and it is possible that this is a drafting anomaly.

I will end with the following quote from a famous American jurist: “Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed. For my part, I do not look forward to a society which . . . campaigns anonymously . . . hidden from public scrutiny and protected from the accountability of criticism. This does not resemble the Home of the Brave.”

Who was that jurist? That was one of the Supreme Court’s more conservative members, Justice Antonin Scalia, just a few years ago, writing a concurring opinion in a case called *Doe v. Reed*. We could not agree more.

Thank you for the opportunity to testify.