



THE MONEY QUESTION

The Boston Globe, Editorials Section, September 25, 2004

WHEN THE Supreme Court made its landmark *Buckley v. Valeo* ruling in 1976, saying that limits on campaign spending violated the free speech clause of the First Amendment, spending limits that had been approved by Congress and 31 states were nullified. But the city of Albuquerque wasn't paying attention. For more than two decades, starting in 1974, before the *Buckley* ruling, Albuquerque elected its mayor and city councilors under a local law that did contain spending limits. The process was popular, was widely seen as successful, and went unchallenged.

Courts finally barred the practice in 2001, a decision upheld last April by the federal appeals court. Now Albuquerque wants the Supreme Court to restore its system in a case that could, after three frustrating decades, turn back the corrosive tide of big money in politics -- a tide that this year will exceed \$1 billion.

Most of the spending limits overturned by *Buckley* were enacted after the Watergate scandal by disgusted legislators who saw the need to clean up the electoral process. The Supreme Court agreed that political money can be corrupting but ruled that contribution limits would deal with that problem without the need for spending limits.

Albuquerque now argues that *Buckley* was too optimistic -- that in fact corruption and the appearance of corruption are rampant in the current system, undermining public confidence. Contribution limits have in fact increased the influence of special interests, which have become adept at bundling contributions, making soft money donations, and financing "independent" expenditures.

The Albuquerque petition, prepared with the assistance of the National Voting Rights Institute, also argues that fund-raising demands have become so great that many officeholders spend several hours a day soliciting money, an unhealthy practice that takes significant time away from their jobs.

Less emphasized in the petition, but deserving a fresh look from the court, is the beneficial effect that spending limits would have on democracy in America. The *Buckley* decision rejected the argument that spending limits would encourage more competitive campaigns. But the result has been that candidates, usually incumbents, can store up enormous war chests that deter all challengers, so in many districts there is no debate at all.

Lending hope to the reformers is the fact that spending limits enacted in Vermont in 1997 were upheld by a panel of the US Court of Appeals in New York this August. With appeals courts in two districts at odds on a fundamental question, there is a decent chance the Supreme Court will do the right thing and take the case.

Buckley's rationale from 1976 hasn't worked. A fresh start would do more for democracy than any reform since.