

WELCOME

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NO MONEY ELECTIONS

AND

NO PARTY POLITICS

***GOVERNING OURSELVES RESPONSIBLY
WITH INTEGRITY, DIGNITY AND PRIDE***

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Like the devil, it is referred to by many names: campaign finance, lobbying, advocacy, speech, think tanks; 501(c) 3 & 4 and 527 tax-free organizations; PACs, super PACs, soft money, hard money, political messaging; campaign advertising, campaign contributions and donations.

If it involves any expenditure of any kind,
we call it all, simply:

Money

INTRODUCTION

At the very top of the list of the myriad problems we face, is the Mother of all problems. It is a problem which is the root cause of most of our problems, as it prevents solutions to the very problems it creates – it is Money in our elections. Like a secondary infection, party politics has devolved into a divisive death spiral which has pulled us into its vortex as it pulls us apart. To make matters even worse, now stir in twitter tantrums and uncontrollable fake news in social media stampedes, with Money and its partner, poisoned partisanship. How can we expect our government¹ to function under these conditions? Is it any wonder that if there is one thing on which all American seem to agree it is that our government is broken?

How can we expect to deal with any of the many serious, even existential, problems we face without a functioning government? That means, as a matter of survival, making our government work to meet our urgent needs must be our top priority. But how?

That is purpose of this book -- to propose a comprehensive constitutional amendment which will: 1.) get Money out of politics, completely, once and for all; 2.) give ourselves all of the unbiased information we need in fair, free, and open public election and legislative forums, that guarantee equal access to every citizen and candidate; 3.) make choosing our candidates entirely non-partisan and as open, fair, and democratic as we possibly can; 4.) give ourselves the gift of governing ourselves responsibly with integrity, dignity, and pride, which will keep on giving and giving in virtuous ripples. And, importantly, this book describes how we can implement enactment of what will be our 28th Amendment by using the tools provided in our Constitution and following tactics our great grandparents used as a template.

We will have: better candidates to choose from; substantive information from which to make truly informed votes; a Congress and state legislatures that work; an improved sense of community promoted with positive attitudes by positive politics; and, we will have strengthened our First Amendment rights by making political speech truly free.

¹ Note: in this context “government” is taken to mean the legislative process and the political system which supports it.

In addition, there will be no more campaign ads, ever, shorter campaigns, uniform rules and schedules. We will curtail or end, entrenched partisan divides and counter-productive party politics; fake news/disinformation in our elections; belligerent, mean-spirited, divisive, bullying behavior and speech; self-dealing, influence-peddling, paid lobbying, and corruption itself -- at its source.

It will cost about \$9.00 a year, per eligible voter, from federal tax funds (not as a poll tax), as opposed to the estimated \$22.00 it costs now, paid for with private money.² To initiate, it will cost each of us just two envelopes, two pieces of printed paper and two postage stamps. Or, better, just a little of your time to have two conversations with two of your trusted employees – your two representatives in your state legislature -- as you personally hand each of them your petition and discuss why you want them to act as your petition calls for.

If we manage to do this, we will be the first nation in the world to do so. As you will see later in this book, corrupt campaign finance is a problem that plagues every constitutional democratic republic on earth to varying degrees. We would not only inspire other nations with our example, as we had over 230 years ago, by forging the world's first constitution, but we would give ourselves a much-needed boost to our morale, sense of unity and national pride. We will have reason to believe in ourselves. This will spark yet more innovation and seed social and political evolution.

If you are thinking, this is what I have been waiting for – a well-considered plan, something I can act on. Pass go and move ahead directly to Chapter 12: *It's Up to You / Handbook for Action* or, simply visit our website, NoMoneyElections.org and pass this book on to someone in your circle who you might think fits into one of the following categories.

Is your reaction: sounds too good to be true? Great, that means you would love for it to *be* true. You're just healthily skeptical. Please, give yourself a chance to overcome your skepticism, read on and find out how truly good it *is*.

Impossible, you say? No, it certainly *is* possible. For me, a 67-year-old with a bad ankle and no vertical whatsoever anymore, dunking on LeBron? Now, *that's* impossible. If you're chuckling to yourself, then there is a good chance you see how natural it is for us to immediately reject something new and different, particularly if it seems like a big change. Please, try to be open to the possibility, and pay special attention to Chapter 11: *Paradigms, Lost – Republic, Found*.

Great idea – but it'll never happen, is your response? Then you are certainly not alone. It's by far the most common reaction, because it might mean that you are like so many of us, who have resigned ourselves to that sense of hopelessness about ever being able to fix our broken political system. It's hard not to feel this way, especially if you're a bit older and have seen things get steadily worse. Haven't we all been witness to the accelerated cynical unravelling of everything we hold dear in recent years? Maybe that's why dystopian visions permeate pop-culture?

² See: Chapter 7. **The Solution:** *Summary of guidelines for supporting legislation*. These figures are based on the projected federal annual appropriation of 2.12 billion, as opposed to the estimated average annualized campaign expenditures over the last 5 years of \$5.1 billion for state and federal election campaigns. Note: this does not imply that eligible voters have to pay a poll tax. That would be unconstitutional, thanks to the efforts of our parents who gave us our 25th Amendment (see Chapter 8: *They Did It, And Now, So Must We.*) The per eligible voter cost is made merely for the sake of comparison.

Hopelessness is predictive, in a self-fulfilling, fatalistic way. And, I think most agree, if we do nothing to pull ourselves together, the consequences will be dire and difficult and, maybe even ruin our nation. How many times haven't you heard, "We're doomed!" or, thought it yourself?

But, we can choose to avoid this trap to perdition which awaits us. It will be a lot easier than doing nothing and struggling to survive (or not) our fate.

It will take something similar to what is being proposed here: to agree to move together to saner thinking and rational self-governing. The proposed amendment, is exactly that, a proposal. The purpose is to provide a framework and invite your consideration, comment and collaboration.

Our nation needs this. Every nation needs this. It's *not* impossible. The only thing that would prevent us from doing this is the self-doubt and sense of hopelessness that have a grip on us now. Will we let that define us? Will we just give up? If you say – *No!* -- then please, read on.

But, we don't have the luxury of wasting time. There are existential threats that we must deal with. Now. We have urgent needs that are not being met: from climate change while continuing environmental abuses and global poisoning; to violations of basic human and civil rights; to social injustice alongside feudal disparities of wealth; to failings of public education, health care and basic infrastructure; to resurgent racism and to increases in gun violence and murder, addiction, suicide and other social diseases; and on and on. All this, while still spending as much or more on our military than all of the next top ten military spending nations in the world combined.

Doing nothing *is* doing something. By choosing inaction rather than choosing to govern ourselves responsibly we aren't giving ourselves a chance.

Now, is the time to act. Just deliver two petitions. That's the crucial first step.

CHAPTER 1.

ORIGINAL PROBLEM It isn't in the Constitution...

The original errors of omission

The original twin errors of omission: 1.) no instructions for candidate selection and, 2.) no means for informing voters. How do candidates appear on the ballot? Our framers gave us nothing here. In our Constitution the only instruction for our elections is in Article. I, Section. 4: "The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make our alter such Regulations...". That's all we have to go on. This left a big void. Political parties quickly moved in and with no original constitutional authority whatsoever and all ad hoc over the years, now have what amounts to complete control over who and how candidates appear on our ballots.

How do the candidates inform the voters? Again, with no ways or means set out in our Constitution to achieve this universally agreed upon fundamental need for a democracy to function (an informed electorate) created another huge vacuum. Also, with no original Constitutional authority whatsoever, Money readily slid into the vacuum and became the means. Eventually, with help from the Supreme Court, now Money is speech and it can't be limited.

Government of the people, by the people, and for the people? If it ever was the case, it sure isn't so now.

We now have: Big Government for Big Money by Too Big Parties.

We citizens, in large part due to our own civic negligence, have allowed this slow-motion coup. So, it's fitting that only we citizens have the power to undo the coup. First, let's examine the heirs of the errors of omission: Money, Parties and their enabler Supreme, separately, but with inevitable overlaps.

CHAPTER 2

MONEY PROBLEM

MONEY MAKES MOCKERY OF DEMOCRACY

A cost/benefit analysis of allowing private money to fund our public elections

MONEY; THE COSTS ARE MANY

It's vote buying!

If you give just \$12 to a candidate or the candidate's advocate(s), you hope it will result in another vote besides your own for that candidate. It amounts to vote buying. Regardless of the amount of your donation, \$12 or \$12 million, the intent is the same. The donation is made with the intention that it will result in a vote, or votes, cast for your preferred candidate. You don't draw straws to decide which candidate gets your \$12 just so a candidate gets to apply \$12 worth of "messaging" to inform the voters, do you? No, of course not. If you give your \$12 to candidate, party, or Super Pac, it makes no difference either. The purpose of your donation is still to secure votes for the candidate you prefer. Call it by its nicer sounding euphemism – campaign finance, if you want to. But that doesn't mask the intent; it's vote buying!

It doesn't just apply to votes for a candidate, party, group of candidates, referendum or any other type of item that appears on a ballot in a public election. Suppose you donate \$12,000 to an issue advocacy group whose avowed purpose is to work for (or against) legislation, or even a specific bill in a single state legislature. Votes will be required for the legislation or that particular bill to pass (or be defeated) by individual legislators within that single state legislature. The goal of your donation and that advocacy group can't be achieved without votes. Again, it's money for votes. Call it by any other name you want: lobbying or advocacy – if an expenditure is made then, ultimately, it is vote buying!

This alone, should be reason enough to make any nation that calls itself a constitutional representative democracy to drop everything it's doing right now, and prohibit all forms of private financing of public elections and establish the best ways to inform the voting public to cast well-informed votes in public elections solely by public means. Only then can a nation call itself a democracy. But, money buying votes, legislation, access to and, influence of, the politicians, has a long history. It's economically entrenched, politically buttressed and, lots of money passes hands. No matter that its very concept is corrupt.

And, no matter that we all see the Emperor parading naked. The parade takes lots of money and people making lots of money, to put on. That means many of those people, not afflicted by a functioning conscience (it's part of the job description, after-all) will do anything to keep the parade going. We would have shut it down long ago if not for the insidious grip of Money. The problem is that the costs are too great for us, as a nation, to bear any longer. We citizens alone

have the will and *the authority* to shut the parade down. All of the professional parade-makers: the parties, fund-raisers, lobbyists, media, PR types, data miners and manipulators, advertisers, advisers, managers, dirty-tricksters, spin-meisters etc. ad nauseum, won't call off the parade. If the parade got called off, they would all have to get real jobs. The politicians, equally addicted to Money, would have to become involved with meeting the needs of the people, not the wants of their donors. The possibility of self-enrichment would end. The donors would see that Money has no buying power in the political realm. Many of them would be relieved to be relieved of the having to pay for the parade. Only a few won't happily give up the power Money buys them.

The solution and the way we can shut down the parade is quite simple and rational. Zero out the Money. We will lay it all out for you to consider. We will also show that the parade perpetuators have no argument for their pathetic parade because *is* no rational argument to allow it to continue. The costs are just too heavy to bear any longer.

There is collateral damage from allowing vote buying. One casualty is at the very foundation of democracy: the principle of one person, one vote. If you give \$12 million to a Super Pac or two and, a few other organizations who will combine or "bundle" your Money with the contributions from others like you, to advocate for the same candidate you want to win, it will most certainly buy votes for that candidate. On top of that, you can choose to make an individual donation to that favorite candidate of yours, up to a certain legal limit. Thanks to the Roberts Court (Roberts Five) and Shawn McCutcheon you can give to as many candidates as you want to. There is no doubt that all of your donations *will* result in more votes for your chosen candidate(s). Again, it doesn't really matter how many votes your money buys or, even if your favorite candidate wins or loses – the fact is, your money produces/buys votes. It has the same effect of having voted numerous times for the same candidate. The same applies to buying votes cast for (or against) legislation. And, the more you spend the more votes will be cast according to your will. Money = votes, ergo, more Money = more votes. This also means that your donations have the effect of diluting the individual vote.

It's unconstitutional; it violates the First Amendment. Our system of campaign finance abridges the freedom of speech!

Delivering an opinion of the Supreme Court in a 1971 decision, Justice Potter Stewart, quoting Justice William Brennan's opinion delivered in an earlier decision, wrote:

"And if it be conceded that the First Amendment was 'fashioned to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people' (Brennan) -- (now Stewart), then it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigns for political office."³

Both of these men were still on the Court in 1976 and went with the majority (7-1 with one abstention) in the now infamous *Buckley* decision. "One of the points on which all members of the court agree is that money is essential for effective communication in a political campaign.

³ Justice Potter Stewart delivering the opinion of the Supreme Court decision *Monitor Patriot Co. v. Roy*, 401 U.S. 265 (1971) – 401 U.S. 272, and quoting Justice William Brennan who delivered the opinion of the Supreme Court decision *Roth v. United States*, 354 U.S. 476 (1957) – 354 U.S. 484.

This is because virtually every means of communicating ideas in today's mass society requires expenditure of money...The electorate's increasing dependence on television, radio, and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech." wrote another Justice on the court's majority then, Thurgood Marshall.⁴ Full Stop.

Forget everything you know about this decision. (This is an excellent way to shed harmful paradigms.)

This means the most important application of the guarantee of freedom of speech is going take money. Quite a bit of it. So, if you don't have or, are not able to raise significant cash to participate in this fullest and most urgent application of our Constitution's most cherished First Amendment guarantee, you're out of luck. Or, at best, very challenged, if not completely silenced. *Money abridges your freedom of speech, right where it counts the most!*

The Supremes have had an unfortunately (for all of us) high batting-average for hitting foul balls off of campaign finance pitches. But, it's a good thing if historical trends continue. Bad Supreme Court decisions seem to pile up in a tough subject area, which appear to directly precede, or even precipitate a constitutional amendment solution. There are more discussions of this predictive tendency still to come, especially in the following chapters: 4. *Supreme Problem*, 5. *Reform Problem*, and 8. *They Did It, And Now, So Must We*.

More costs identified and described:

On the cost side of the ledger in this analysis are innumerable harms, easily identified and often discussed. Quite a few books have been written on the negative effects of private money (Money) funding our public elections and the many harmful side-effects, plus external and opportunity costs⁵. Most of this literature is thorough, well-researched, scholarly, well-written, interesting and, eminently readable, to top it off. There is almost nothing that hasn't been said and, said well, on this topic. The costs have been very well defined, to say the least.

Lawrence Lessig's seminal work, *Republic, Lost* stands out. It is a compendium of the many costs of our corrupt system of campaign finance (Money) and the harms it inflicts. All of the costs attendant in the loss of the trust and faith in our government he describes aside, its costs include loss of revenue in the way it distorts markets. It hurts our economy. Robert Reich makes similar arguments in his writings, particularly in his books, *Super Capitalism* and *Saving Capitalism*. Money creates policies and regulations that favor the donors. This makes the donor's wishes prevail over what had been previously been determined by market forces. In other words, Money takes the free out of the free market, which gives rise to many downstream (external) costs.

The first tributary to a healthy free market economy is competition. Money erects dikes in the form of direct subsidies to certain products and practices, while restricting the flow to others by way of regulations. You'll find many businessmen railing against government regulations

⁴ Buckley v. Valeo, 424 U.S. 1(1976) 424 U.S. 19

⁵ Econ speak: External costs are those which are of the unexpected consequence variety. Usually discovered only after the fact. Opportunity costs derive from choosing one path over another. The path not chosen, which, again with hindsight, may have been the better choice if only it hadn't been for those unforeseen externalities...

restricting their activities. But if they'd just look upstream, they'd likely find that their bigger competitor with more Money had made strategic donations to the right politicians to pay for the implementation of those regulations to disadvantage its competitors. And yet they blame "the government" for burdensome regulations. Robert Reich complains of the false, free market vs. government regulation, dichotomy. In the first place, the market is anything but free -- it gets manipulated the hell out of.

The outright costs of the subsidies are usually paid for with taxpayers' money. It's often called corporate welfare. Those are the direct costs. The external costs that those subsidies and regulations which burden the economy as a whole by the loss of true competition and productivity are more difficult to measure but, are even greater and, more far reaching in the long run.

Lessig points to agricultural subsidies for corn production as an example. There is the direct cost to taxpayers. Huge. But the external costs go on and on. It encourages corn to be over-produced and, over-used in our diets causing poor health. It requires (like over-production soy beans) harmful mono-cultural agricultural practices, which harms the soil, water quality and aquatic life and, of course, human health. It (also like too much soy bean production) encourages industrial animal production and because they're corn, soy and chemical raised, their meat is not as nutritious and the animals suffer because all-grain diets hurt their digestion big time. That produces more methane which is a potent greenhouse gas. And, the run-off from feedlots is ruinous to water quality. Too much meat consumption is harmful to human and environmental health.

While on the topic of corn and externalities, let's look at how agri-business giant Archer Daniels Midland (ADM) and its campaign contributions to Bob Dole et al and lobbying efforts to promote and ratify the North American Free Trade Agreement (NAFTA) may have resulted (not so indirectly) in the rise of Donald Trump. One of the undeniable motives for ADM to lobby for NAFTA was to open the Mexican market for its corn. As per NAFTA, Mexico lowered its protective tariffs allowing Midwestern ADM corn to be sold in Mexico. There was no way for small Mexican corn farmers to compete with the heavily subsidized ADM corn.

Now deprived of their subsistence way-of-life, small-scale Mexican corn farmers flocked, at first, to northern Mexico to seek employment in factories that sprang up along the US border. Those new factories, it might be noted, were replacing US factories that had to shut down because they could no longer compete with lower labor costs of the new Mexican factories. The wages at those new factories in Mexico stayed low, in part, because there were far more displaced Mexican farmers than factory jobs available. Those impoverished Mexican farmers then took the next desperate step north. They came by the thousands, to the understandable resentment of those workers in the US, who had also lost their jobs, as they saw it, because of NAFTA. Donald Trump descends the escalator announcing his bid for the presidency while scapegoating Mexico, Mexicans and NAFTA. Fox News runs with it. An imperfect storm of the external costs of ADM Money.

Another cost is borne, unwittingly, by the corporations or businesses that have become over-reliant on the practice of using Money to achieve market advantages, instead of concentrating on things like innovation and increasing productivity. This is an example of opportunity costs. It's a prevalent business plan that Robert Reich in *Saving Capitalism*, using the example of Monsanto,

describes this way: “Monsanto, like any new monopoly, has strategically used its economic power to gain political power and used its political power to entrench its market power”. But at what cost? Now, to maintain the entrenched market power on which Monsanto relies, it requires ongoing litigation to protect its patents and exclusive contracts while spending vast sums in lobbying and campaign contributions to do so. That’s not the “invisible hand” guiding the free market. It’s Monsanto manipulating the market and spending an inordinate amount of its resources to perpetuate. Those costs put a real burden on Monsanto which have nothing to do with the development of the products it sells. If we were to end our corrupt system of campaign finance, then businesses wouldn’t be tempted to fall into this trap and, it would free up capital for businesses to concentrate on beneficial expenditures for things like research, product development and distribution. Capitalism would be saved from its lesser instinct to manipulate the market and, the cherished concept of the free market may become reality.

John Nichols and Robert McChesney, in their book *Dollarocracy*, examine the nexus of Money and the media through the lens of the 2012 election cycle. But first they give us a very thorough accounting of *all* campaign expenditures, from the presidential campaigns down to those for local elections, even for initiatives, referendums, and judicial races in 2012. The figure they come up with is close to \$10 billion. They document sharp spending increases at all levels and, perhaps most tellingly, is that big national donors (outside money) are prodding into elections at all levels and everywhere.

\$10 billion is serious money within the context of the advertising revenue. Not all of that \$10 billion went to advertising revenue. Some of it got siphoned off by the various operatives, the usual suspects: PR types, data manipulators, and the campaign-cash caddies were over-tipped as usual. But the lion’s share went to advertising. For some perspective on this: according to a Pew Research study of the effect of the 2016 election on advertising revenue for political news, has shown the total revenue for the big three, Fox News, CNN and MSNBC cable political news broadcasters was about \$5 billion. That’s for total annual revenue which includes local channel subscriber’s fees, not just political advertising. And the revenue has been up year after year. Advertising revenue alone, was up 47% above 2012 levels.⁶

Nichols and McChesney point out that particularly in the case of MSNBC and especially Fox News, pontificating is far more profitable than journalism. It is a propaganda organ which generates ad revenue to boot. Very nice. Of course, Trump calls CNN, “fake news” too. Either way, the pontificators have replaced serious journalists, and that comes at enormous cost to democracy, particularly to the basic need for an informed electorate. Even more ominously, the melding of political propaganda and the media into one, is one of the highest of all costs to bear - where’s the truth?

Jane Mayer’s book *Dark Money* brings you right into the lives of the Koch Brothers (KB) and their relatively few ultra-wealthy associates. We call them Koch-conspirators⁷, (KC) who, through relentless spending of massive amounts have totally redefined not only *what* Money (as we call it) can accomplish politically, but *how*. It’s not just through the mere donations to, or “uncoordinated” support of, campaigns of preferred candidates, although that is still the biggest

⁶ A.J. Katz, *Revenue at Fox News, CNN and MSNBC up nearly 20%*, AdWeek, June 2, 2017

⁷ The ‘original’ cast: Devos, Van Andel, Mellon Scaife, Olin, Coors, the Bradleys, then Mercer and the rest of the newbies and wannabes. This is not to mention independents like Adelson and Uihlein et al.

part, but by funding a labyrinth of smaller organizations (mostly 501s and 527s, of courses) at work across all levels of politics. They fund, individuals to promulgate libertarian ideology in colleges and universities; a group that writes model state legislation; a group that calls for a new constitutional convention.⁹ They fund a multitude of think tanks (is that where ideas are drowned or, are weaponized?). They fund at least 130 separate groups at the latest count. It is a very sophisticated and multi-faceted strategy to say the least. And, it's all tax free! As Elizabeth Kolbert put it in a story for *The New Yorker*, "For every billion dollars spent on advocacy tricked out as philanthropy, several hundred million dollars in uncaptured taxes are lost to the federal treasury."¹⁰

As for the KB and their KC the ultimate goal was very simple. They wanted their taxes cut – significantly and permanently. Past tense here, because > Mission accomplished! The Tax Cut and Jobs Act was signed into law on December 22, 2017. It was a wonderful Christmas gift for the Koch Bros. (KB) and Koch-Conspirators (KC). The cost put on the tax-paying public's credit card? 1.51 trillion¹¹ in increased government debt. Priceless? Not quite, but close. KB and their KC spent about 1 billion Mayer estimates, in 2012. And they not only kept it up but, kicked it up a notch each year right through 2016. Not priceless, but a great ROI for the tax cut they got. Enough to make the Monopoly Man's moustache flutter.

David Koch, at least, celebrated with a Koch-style touchdown dance, by announcing his retirement. Will this be the end of his brother Charles Koch's efforts too? Don't bet on it. Mayer ended her *Dark Money* grand expose' this way:

As a child, he [Charles] used to tell an unfunny joke. When called upon to share a treat with others, he would say with a wise-guy grin, "I just want my fair share – which is all of it."

MONEY; DUBIOUS BENEFITS FOR THE VERY FEW

On the benefit side of the ledger, what, if any, are the positive effects of having political campaigns financed with private money?

Do you think, or have you heard anyone, or read anyone who thinks that our system of campaign finance is working well? That it has a positive and beneficial impact on our elections? That it promotes good legislation? That it instills trust in our elected representatives? That as spending increases, government performance and quality of public discourse improves? That there is anything good to say about it at all? Can you think of *anything* to like about how we allow

⁸ Note: 501ers refer to, issue advocacy spending, academia, think tank and policy groups that fall mostly into 501c3, 501c4 & 501c6 IRS tax-free categories.

⁹ Note: Please reference the Convention of States described in the chapter, *They Did It, And Now, So Must We*

¹⁰ Elizabeth Kolbert, *Shaking the Foundations, The donor class in a new Gilded Age*. *The New Yorker*, August 27, 2018.

¹¹ According to House Ways and Means Committee Chairman, Kevin Brady (R-TX), as reported by Jim Tankersley, Thomas Kaplan and Alan Rappeport, *Republican Plan Delivers Permanent Corporate Tax Cut*, *New York Times*, November 2, 2017.

Money to influence our elections and the agenda of those elected? Are there *any* arguments that can be made to justify it?

Well, there are three classes of players who profit from our thoroughly corrupt system. What kind of arguments do you suppose they might make to justify the game they play? (*At our expense, it might be added.*)

The first is the caddy-class. Exhibit A: Michael Cohen, Trump's "fixer". In May 2018, AT&T publicly admitted to and, apologized for, having paid Michael Cohen a really nice tip, in advance of services, in the amount \$600,000, in the hope it would assure access to Trump. It seems AT&T was caught flat-footed. Assuming, as did just about everyone else, that Trump would not win the election, AT&T made no contributions to the Trump campaign. Apparently, one of AT&T's lobbying team came up with a plan to give Cohen a big tip in advance. Because he's Trump's fixer, the plan went, we'll still have Trump's ear. But in the same vein that a late birthday card might compound the slight, the plan back-fired. The big tip was paid up front, but according to AT&T, they got nothing in return. There couldn't have been a quid pro quo. (Oh no?) Instead, they claimed, it was a quid no-go. Caddy Cohen never even got out of the shack. What are we supposed to think? Poor AT&T? It's analogous to a drug dealer going to the cops for getting ripped-off in a drug deal.

Paul Manafort, Konstatin Kilimnik, Roger Stone, Elliott Brody, Jho Low, (you'll meet them later in the Chapter 6: *Global Problem*) and a whole army of campaign-cash carrying, though not so infamous and, (as yet) unindicted lobbyists that troll around in the swamp or, clickety-clack in their hard-soled shoes down the marble hallways in our state capitol buildings plying their trade. Or, as most of them now choose, shod in their golf-shoes, out on the course deep in hubristic discourse, of course, while plotting out payments. But, it's a good bet none of these over-tipped campaign-cash caddies (CCC) could offer anything other than a lame, "Well, that's just the way the game is played" or, "Look, I don't make the rules" as a weak and cynical defense of the game they play. That is because there *is* no serious defense of, much less rational justification for, the way we allow our elections and politicians to be bought.

He who pays the piper calls the tune. The second group of participants is the donor-class: KB & KC, Sheldon Adelson, Tom Steyer, Vlad Putin's Oligarchs, all the big corporations, Super PACs, Dark Money from all sources foreign and domestic, capital groups, PACs, industry groups, monied interests, interest groups, issue advocacy groups, unions, foundations and endowments, tax-free 501 and 527 organizations -- (we call it all: Money)¹² There is a lot of shoving and jostling going on to pay the piper. But, are the tunes any good? Do they get the tunes they called? In what order? (isn't timing everything?) Consider this scene: The man who put the O in Russian oligarch, the big O himself, tiny Vlad's best big buddy, Oleg Deripaska¹³ is stewing under his breath, "What the Blyad! here's this Ron Burgundy layin' down some free Jazz for that damn (chert) ACLU!!!?" (the big O thought his tune was next) and then it's, "Wait-a-minute-here-now?! Sheldon and Jared, that little wimp traitor, think they can just butt in line by pooling chips?!? What, they think they're going to inflict Joel Rubin's super-sharp

¹² We call all of these terms to describe private money, simply: Money -- or -- campaign-cash.

¹³ Forbes rated Deripaska the 9th richest individual in the world when he was still in his 40s. Longtime close Vlad buddy, up from humble roots, he saw his wealth plummet to near total wipe-out in the '08 crash. He came back and had some funky dealings with Manafort before the whole Ukraine Yukashenko blow-up and Crimea annexation revelations. No wonder Robert Mueller is pursuing the Manafort/Deripaska relationship.

screeching klezmer clarinet for Bibi on these ears!? “I’ll call Vlad, let him know, what I know, for a long time now, ever since that piece of *+^#, Manafort, tried to screw me, we divest from these chert *Amerikanskov* Idiots!”

So, is it really working for them, the donors? How many of them clean-up like KB & KC? The common wisdom is similar to that of what financial advisers say about the stock-market -- you have stay in it for the long haul to reap benefits. And many a donor, just view it as another expense; it’s just a cost of doing business that may even yield returns in access and political favors. The most cogent example of this is Donald Trump’s response to Ted Cruz’s revelation early in the lead up to the 2016 Republican Primary race that Trump donated to Hillary Clinton’s Senate campaign in 2012. Trump readily admitted on Fox and Friends, “I’m a businessman. I contribute to everybody. When I needed Hillary, she was there. If I say, ‘go to my wedding’ they go to my wedding.” Later, in another interview, “As a businessman and a very substantial donor to very important people, when you give, they do whatever the hell you want them to do,” Mr. Trump boasted. “As a businessman, I need that.”¹⁴ Who could argue with that justification?

Surely, there are some good people of fine character in the trenches working for a cause they believe in, who are the only ones of the donor class who could offer any plausible, but weak, sheepish, and slightly slump-shouldered excuse, “It’s the world we live in, we have no choice”. So, what it comes down to is, those in donor-class are not able to offer anything but a poor rationalization, either.

The other participants in the Money game are the politicians themselves; the dealer class.¹⁵ So called, because they have become dealers for Money rather than leaders of people. Yes, many politicians are crooked to the bone, who are in the game solely for the purpose of personal enrichment. For them, getting elected and holding office is simply a stepping stone to get into the caddy-class, where they can get those huge tips. This phenomenon has popularly come to be known as the *revolving door*. Get elected to get in the game.

There are also those who seek and hold office motivated by the best of intentions. Yet they put up with the money chase, even as it is abhorrent to them. That’s where the term *dialing for dollars* (in the most pejorative sense, of course) comes from. Members of Congress are expected to sit in their respective party’s call centers making phone calls (often to complete strangers) on prepared call lists to ask for Money. This requires an enormous amount of time – up to 30 hours a week! And, it’s amply documented.¹⁶ Many of these well-intended politicians openly complain about having to spend so much time raising money. But that doesn’t mean they’ll work to end the absurd and harmful practice. It’s endemic in both parties, of course.

The former Senator from Minnesota, Al Franken, claimed in his televised evisceration of Supreme Court nominee Neal Gorsuch, during the latter’s Senate confirmation hearing, that in his career as a comedian he had developed a real sense of the absurd, yet he was still unable to comprehend the absurdity of a ruling of Gorsuch made while serving on the U.S. District Court. So, where was Franken’s sense of the absurd when he was asked to square his own open

¹⁴ Peter Nicholas, *Donald Trump Walks Back His Past Praise of Hillary Clinton*, Wall Street Journal, July 29, 2015

¹⁵ Note: taken from the comment: “...We don’t have political leaders serving people, we have political dealers for Money” Nyaketcho Clementina, NoMoneyElections.org first edition, comment page, June 2012, Kampala, Uganda

¹⁶ Norah Roberts, *Are Members of Congress Becoming Telemarketers*, text from 60 Minutes program, CBS News, April 24, 2016

complaints over the distraction of raising campaign cash from doing the work of the people in his recent book, *Giant of The Senate*, with his continuing to be a top fund-raiser for the Democratic Party? To this question put to him at a Commonwealth Club event, he responded with, as he often has, "...we can't unilaterally disarm."^{17 18} Al Franken didn't coin that phrase. It's an oft-repeated excuse used by politicians on both sides of the aisle. It boils down to the resignation, again, that there is just no choice but to proceed down that path because, "that's just the way things are." That is the only rationalization the dealer-class, just like the caddies and the donors, can offer. Even though they may hate it and know it's wrong, they still play the game. What does that say about their character? That's why Ms. Nyaketcho's switching the consonants, l, and d; leaders to dealers, is so -- on the Money.

Can we all agree that there are no real benefits to private Money funding of public elections? Isn't it obvious what we get is nothing but a costly, corrupt mess which absolutely prevents good governance? Without a functioning government how can we expect to deal with any of our pressing and even existential problems? Shouldn't it then logically follow that our top priority must be to get money out of politics once and for all?

¹⁷ Catherine Richert, *Franken, McFadden complain about big money, but still rake it in*, Minnesota Public Radio, September 30, 2014, St. Paul, Minnesota

¹⁸ Al Franken, In Conversation with Judge LaDoris Hazzard Cordell (Ret.) *Senator Al Franken: Giant of The Senate*, Commonwealth Club, July 6, 2017, Santa Clara University, Santa Clara California.

CHAPTER 3

PARTY PROBLEM

If Money in our elections is the root cause of our government's dysfunction, then our two-party system has come to assure it remains dysfunctional, having thoroughly subverted the intentions of the authors of our Constitution, by placing party politics ahead of representative democracy. Remember, Section. 4. of Article. 1. is all we have to go on in our Constitution concerning elections. Nowhere is a political party or organization even mentioned. Yet now the two major parties have dictatorial reign over candidate selection. Even if you want to run for office because you might feel you have new, non-partisan and innovative ideas to share, you will have to decide how to fit into one of two boxes just to have a realistic chance of getting nominated. Without a major party nomination getting on the ballot in the general election is all but impossible. You are forced to pick a side. Once elected you must swear an oath to uphold the Constitution but in it effect it is superseded by your Party's command of obedience to tow the party line.¹⁹

In the 2nd paragraph, Section 5 of Article 1.: "Each House may determine the Rules of its Proceedings... Again, there is no mention of party, nor specific rules governing party authority as you find in many parliamentary constitutions. Yet now in our nation the parties have utter control over the legislative process, and with no rules to govern them, except the ones they make themselves, it has devolved into intractable stalemate. It's us versus them on every issue and in every regard, tribal, gang-like, each bent on the other's demise, hyper-partisan, straight party line obedience; pick your metaphor. This, despite the dire warnings of George Washington, Thomas Jefferson, James Madison, John Adams and other Founders that political parties (or factions as they were called in the early days of our republic) posed an inherent threat to democratic republics. And, this despite pointedly granting parties no constitutional authority whatsoever. However, the omission did not prevent parties from being formed soon after the Constitution was ratified, ironically, by many of these very men.

Further, it is a particularly bitter irony that their earlier admonishments have indeed come to pass, just as Madison noted in the Federalist Number 10, "...leaders ambitiously contending for pre-eminence and power had divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good."²⁰ Doesn't that describe the hyper-partisan party politics and, intractable polarization that grips us today? It has come to this point bit-by-bit and on a completely ad hoc basis that the parties gradually amassed more and more power and consolidated their control. It was not part of a grand design or any single intent or event. No single party is to blame. Omissions in the Constitution, whether intended or not, left a vacuum that the parties (and Money) filled.

But that does not imply that this preoccupation with power and control leading to the abject failure of the parties to deliver legislation to meet the needs of the people is not dangerous,

¹⁹ Mickey Edwards, *The Parties Versus the People*, Yale University Press, 2012, New Haven, Connecticut

²⁰ James Madison, *Federalist No.10*, Friday, November 23, 1787

because it has thoroughly eroded our faith in government. Some even view the government as evil. This frustration, hopelessness, anger and even rage at the core of our culture, in our collective spirit, poses a far greater danger to our existence as a nation than any external threat we may face.

The fact the parties have so manipulated the rules as to require party sponsorship as a precursor to every attempt at legislative action has now come to essentially doom it to failure, or at best, being inadequate. The failure to provide adequate healthcare legislation is a prime and painful example.

In the first place, Congress has had to meet the needs of the health insurance industry ahead of addressing the needs of the people because, health insurance Money (like every other monied interest) has bought its place at the head of the table by funding the elections of key members of Congress. Money sets the agenda. Just to be clear, we are not talking about providing healthcare for people, but rather, tax money to help people buy health insurance from private corporations. Just how and why did the senior Democratic Senator from Montana, Max Baucus (Max), get to decide what kind of insurance you get to buy. In 2008, Baucus was reelected to a 6th term in the Senate with a whopping margin but, with only 345,937 votes (Montana's population is only just over 1 million). How could a person voted into office with so few votes have so much power, you might ask? The short answer is Money, top down majority party rules, and straight seniority authority. It gets a little confusing because the three are interdependent, and that's part of the point here.

Max, a Democrat, was in the majority party when the Affordable Care Act (ACA) was working its way through Congress. Because the rules the parties made for themselves (not laid out in the Constitution) both the House and the Senate, allow only the party in the majority (even if it is only by one vote) to control the legislative agenda, meant that the Democrats, who were in the majority at the time, were able to set out the bill which eventually became the law known as Obamacare in March of 2010.

Max was chairman of the all-powerful Finance Committee simply because, with over 3 decades in the Senate, he was the most senior by far; chairmanship guaranteed. That made him a veritable Money magnet (and magnate). Max grew up in Helena and speaks in a slow Montana monotone. But, he had a nose for Money. He'd host these Barbeque n' Hoedown events out at his big (75,000 acre) ranch (no George W-like ranchette for Max) where CCC would pay up to a couple thousand bucks admission for the privilege. These, what amounted to CCC shakedowns, were regularly scheduled, can't believe they were legal, better if they'd been called "Money-to-the-Max" weekends, were right out there for all to see. The Finance Committee's jurisdiction includes health care. Max managed to really rake in Money from all health care related industries especially insurance (18-20% of the total economy, as it is often said) and it put him in the catbird seat when the Dems made their move to what we all thought was finally going to be "universal healthcare". There apparently was no universal definition of universal healthcare, however. Max's definition just might have been predisposed to favor health insurance Money because, records show contributions during that period just went Money-to-the-Max-Big-Sky-high. So, no discussion of a single-payer system at all, or even serious talk of the hat-in-hand,

public option made it past the ultimate arbiter Max, Big Guy from Big Sky, Baucus.^{21 22} This case study, featuring Max, the Dems and Obamacare is just typical stuff – it’s the way politics works now. Max got appointed, after serving out his last term in 2014, by President Obama to become the US Ambassador to China, until Trump fired him in 2017. Max, of course, was instrumental in negotiating the Trans-Pacific-Partnership Trade Agreement, trashed by Trump. But we shouldn’t worry too much about Max’s misfortune. Do you think he made any side deals while he was in China?²³ Nah.

As with all legislation, important or inconsequential, Obamacare was drafted by the majority party with some largely symbolic gestures, like allowing amendments by the minority Republicans (all summarily rejected by the Democrats who were in majorities in both bodies at the time) as well as input in committee hearings. These were by no means sincere attempts at making this a broad-based effort. There was never any serious consideration or discussion of other options or adopting successful elements or policies from other countries (whose health outcomes are better than in our country). Ultimately, the Republicans had no real part in the drafting of the bill.

As hard as it may be to fathom, in the ensuing years, majority party control of legislation in Congress (and most state legislatures) has become even more audaciously partisan. The House of Representatives narrowly passed the so-called American Health Care Act/AHCA which was the Republicans’ much promised “repeal and replace” of their uniformly despised Affordable Care Act (ACA), a.k.a. Obamacare in 2017. Just as the Republicans had voted unanimously umpty-ump times to repeal Obamacare, the House Democrats voted straight party-line against the Republican AHCA. (More on the new-normal, straight party-line votes in a moment) Now, it was the Senate’s turn (for the worse). As we mentioned, as per Senate and House rules – not Constitutionally mandated at all – no matter how slim the majority, the party in the majority has total control over the drafting of the bills if they so choose (as they unfailingly do). And since the parties themselves have bestowed complete control to the Speaker of the House and the Leader of the Senate, respectively, that left Mitch McConnell in total charge of the Senate version.

Now a reasonable person might assume that with just a 52-to-48 Republican majority it might behoove Leader McConnell to include the Democrats in some way, to improve the chances of success. But remember, it was the same senior Senator from the state of Kentucky who stated, quite unapologetically, that his main purpose in the Senate, in response to the first election of Barack Obama, was to see that he would not be re-elected. With just a 4-vote Republican Party majority, Senate Majority Leader, Mitch McConnell, felt he could nonetheless dispense with all the superficial symbolic bi-partisan niceties the earlier Democrat controlled Senate, had used while pushing Obamacare through. And since the Republican plan would ostensibly reduce the budget (due to its draconian cuts) it qualified as an act of budget reconciliation (more abuse of inherited ad hoc rules) requiring only 51 votes to pass, thus side-stepping the 60-vote majority required by Senate rules, to avoid the abuse of the ad hoc filibuster it would have certainly elicited from the Democrats (an ad hoc organization). Oblivious to the public’s right to know or

²¹ Paul Blumenthal, *The Max Baucus Health Care Lobbyist Complex*, The Sunlight Foundation June 22, 2009

²² *Senator Max Baucus: Top 20 Contributors to Campaign Committee and Leadership PAC 2005-2010*, Open Secrets .org, Center for Responsive Politics, Washington D.C.

²³ Tom Lutey, *A Lot of Montana Work Has Gone into Lifting China Beef Ban*, Billings Gazette, September 24, 2016 Billings, Montana

simply how it might appear, McConnell imperiously decided to draft the Senate's bill in secret – even to most members of his own party. On top of that, McConnell's plan was to rush it to a vote with scant opportunity to consider it (presumably before opposition to it could gel). This is what we get for a need so crucial to every citizen and that comprises nearly 1/5 of our economy? And we wonder why people are fed up with party politics?

But our nation's capital isn't the only venue where hyper-partisanship is on display.

Irresponsible party politics are practiced in our state capital buildings, county courthouses, city and even township halls, as well. Party-line votes prevail all across the land -- right down to a House Transportation Committee at the State Office Building in St. Paul, Minnesota charged with, among other things, selecting road surface materials. Different locations require different surfaces. Apparently, a special request was made by a neighborhood council to change the planned surface of a segment of highway that was slated to be re-surfaced where it ran through the neighborhood served by the council. They were hoping for a change from concrete to asphalt because it is quieter. The neighborhood happened to reliably vote Democratic. Normally, Democrats favor concrete as it is preferred by the union. (As we all know Democrats and unions generally go together like beer and pretzels.) Asphalt is the preference of Republicans in Minnesota, as it turns out. Could it be just because concrete is the choice of union Democrats, or is there some deeper ideological division? Or, is it because a wealthy Republican Party family has the key asphalt ingredient, crushed basalt aggregate, market corralled. It may warrant further research. But a funny thing happened on the way to the Transportation Committee meeting. Lo and behold, the committee members voted straight party-line *opposite* their traditional alliances – all the Republicans on the committee voted for concrete and all of the Democrats voted for asphalt. Partisan divides on straight party-line votes can surface (or re-surface) anywhere... and shouldn't be paved over?

This somewhat silly, yet poignant, example of state party politics pales in comparison to the egregious abuse of partisan redistricting a.k.a. gerrymandering that takes place in many of our state legislatures. Our Constitution mandates that a census be taken every 10 years. This allows for the districts to be redrawn, ostensibly to accommodate changes in the population. In 37 states, the state legislatures are entrusted with this task. What can and, often does happen, is that when one or the other party is in a decided majority, it redraws the map to optimize the chances for that party to prevail in elections for the ensuing decade. To achieve this, voting districts can get carved up into funny shapes, far from the fair even sided rectilinear shapes one might presume. (a composite of a 19th century Massachusetts Governor Gerry and one of his more infamously reshaped districts that was said to resemble a salamander, hence; gerrymander). This can exacerbate the harmful effects of partisanship on the whole political process, particularly when it is combined with single party primaries that already skew candidate selection to the extremes. In his very well written and researched book, "Parties Versus the People, How To Turn Republicans and Democrats into Americans," that thoroughly spells out the abuses of partisan politics and offers specific and well-reasoned solutions, Mickey Edwards (himself a former U.S. Congressman from Oklahoma – who happened to be a Republican – and served for 8 terms, before becoming a faculty member at both Harvard and Princeton Universities, is a vice president at the Aspen Institute, as well as a columnist for the Los Angeles Times, Chicago Tribune and the Atlantic) best encapsulated this:

“The results of such partisan redistricting schemes can be destructive to representative democracy. Voter turnout may decline as citizens come to understand that their votes will not make much difference and, with less competitiveness in the general election, candidates begin to

worry more about pleasing ideological activists who vote in the primaries. The entire political process moves toward extreme and uncompromising positions.”

We have tried to illustrate that the two major parties have achieved and maintain their political pre-eminence primarily by total domination of candidate selection and complete control of the legislative process. This would not be possible without raising the money that sponsors the candidates that demands their unquestioning party loyalty.

Once elected, party members are expected to work the phones, log the miles and press the flesh to raise money to help feed the party machine. Those who bring in the most money to the party coffers get rewarded with the choicest committee seats and most influential chairmanships which then positions them to further enhance their special magnetism for money and might land them one of the leadership positions or even the top job.

Nancy Pelosi personifies this syndrome. She has raised more money than anyone. This has, no doubt, made her the veritable voodoo doll of the Republican Party. In her article, Kathryn L. Pearson, Associate Professor of Political Science at the University of Minnesota, published in the June 27, 2017 issue of U.S. News and World Report discusses the growing number of voices asking whether Pelosi has become such a target of revulsion and scorn by the Republicans, that she has now become a liability for the Democratic party. By raising \$141 million in the 2016 election cycle alone and, \$568 million since assuming leadership positions in the House since 2002, Pearson opined that, “Viewed through that lens I would argue that she may be ‘worth it’.” Next is a sad but true little personal vignette at the opposite end of the money chain, which exemplifies how, even at the intra-party politics level, Money purchased party loyalty even trumps family unity. The names have been changed to protect this politician who was honest enough to reveal his distress at having to play the money game:

Every once in a great while I would find myself volunteering for a candidate. In this particular instance my candidate was the Underdog chasing the Moneydog for the party nomination to challenge the incumbent for the US Senate. Cub was a political scion who had inherited Papa Bear’s seat in the state legislature (Cub was a shoe in for the party nod of course, but had won his first general election already, and was up for re-election). Papa Bear, though retired, was still active in party politics and was campaigning for Underdog. Cub was a faithful scion in every respect except, he was actively backing Moneydog. Everybody thought it was odd that he had split from Papa Bear on this. Finally, I caught up with Cub at a county convention as he was about to leave after delivering his speech endorsing Moneydog. I had barely gotten out, “I was wondering why...” When Cub distressed, “Look, Moneydog gave me a \$xxxx.xx check for my campaign, so I have no choice, I have to back him.” Another real-life lesson on the real costs of Money and party politics... Political Scions 101.

Though I have tried to make it humorous, it had had quite an effect on me at the time because it was personal. More than reports like Dr. Pearson’s, on the out of proportion ad hominem attacks on Nancy Pelosi fueled by the envy of her equally out of proportion fund-raising, it motivated me to think hard and long about how we must undo the undue influence of both Money *and* the Parties.

As a model for collective decision making, it sucks. The straight party-line obeisance observed today, imposes a binary approach to every single problem. It’s one side or the other. Nuances,

exceptions to the rule, gray areas, that are naturally occurring parts of life and should be part of the considerations that go into any rational decision-making process get swept aside. We wouldn't live happily, or long, if that's how we approached problems in our personal lives. It's no way to live and it's no way to govern.

So far in the US we have escaped the fate of one party becoming *the* party nationally.²⁴ Some states are there already. The one-party dominance scenario often is found in another harmful form, which many nations suffer under, that as yet we have escaped (at least until now) and that is, one man and *his* party. Now *that*, is dangerous! And, there is *nothing* to prevent it from happening here.

Money and Parties have made the judicial branch partisan and Money dependent too. The Framers obviously intended for the Judicial branch to be impartial. As I write now, Justice Kennedy announced his retirement just after having sided with the majority twice, in the last week of his last session in very partisan decisions: giving Trump his Muslim travel ban, while taking previously accepted mandatory union dues away from public sector unions. Trump, will select Kennedy's replacement and that has both parties already in full-out, smash-face partisan war 10 days ahead of the nominee's naming. Independent? Impartial? Non-partisan?

The appointed judges are at least not directly corrupted by campaign cash. Guess what is the elected judges' number 1 source for campaign-cash? The attorneys who appear before them. Retired Supreme Court Justice, Sandra Day O'Connor, has made fighting the threat this conflict of interest producing machine poses to the judiciary her mission. Please consider this. As a judge you must recuse yourself for the most obscure connection to a party in a case you are charged with ruling on, or even for the *appearance* of a possible conflict interest. So, for hypothetical case A., on the docket you recuse yourself because your cousin owns stock in the corporation being sued in the case. Your colleague looks at the case, she has no link or appearance of connection to the corporation being sued. Your colleague did, however, receive a check from the attorney representing the corporation in her bid for reelection to her seat in the past election. Does she have to recuse herself because she cashed the check from that attorney and used the money to run an ad in her reelection bid? Generally, no. And not necessarily, depending on what state you and she serve in and, as long as the check amount was within contribution limits that apply in that state.²⁵

Then of course you have the case of "Dirty" (my epitaph) Don Blankenship (DD), former CEO of the Massey Coal Company (MCC) who spent over \$2.5 million in total (through several faux "527" soft money interest groups DD created himself) to unseat the incumbent judge and support the candidate DD wanted to become Judge, Brent Benjamin, who, with the help of DD's overwhelming Money support, was then elected. And Benjamin did, indeed, vote on the West Virginia Supreme Court to which he was elected, exactly the way DD wanted him to, to overturn a lower court decision that had awarded \$50 million to a former supplier to DD's MCC. The former supplier's owner Hugh Caperton appealed, claiming that Benjamin should have recused himself in the appellate court because of DD's contributions.

²⁴ Note: The only thing approaching this would have been the near predominance of the Democrats with FDR.

²⁵ *Judicial Disqualifications Based on Campaign Contributions* prepared by Cynthia Gray, Director, Center for Judicial Ethics, National Center for State Courts, updated November 2016, Williamsburg, Virginia

The case went all the way to the Supreme Court (*Caperton v. A.T. Massey Coal Company*, 556 U.S. 868 (2009)). It was a 5-4 decision overturning the West Virginia court ruling, finding instead, that Benjamin should have recused himself. Not Roberts, Scalia, Thomas, or Alito though. It was OK with them that Benjamin didn't recuse himself after being the beneficiary of over \$2.5million from DD to win his seat on West VA Supreme Court and, having promptly complied with DD's wishes, and vote in favor of DD's appeal. (Doesn't that strike you as real close to quid pro quo bribery?) This whole thing was so outrageous John Grisham even "novelized" the audacity of DD and ensuing mess into a bestseller, *The Appeal*.

There's more though. Another (now former) W. VA, Supreme Court Justice, Elliot "Spike" Maynard, who had ruled in DD's favor in the original appeal, was photographed vacationing with DD at DD's vacation digs in the French Riviera. DD was still CEO of Massey when one of its mines, the Upper Big Branch mine exploded, on April 5, 2010 killing 29 miners. DD was convicted of willfully conspiring to violate safety standards in 2015. Dust sensors in the mine were turned off. The heavy dust in the air down in the mine is what exploded when it was sparked. DD went to jail and served a 1-year sentence. The end of DD, right?

Hell no! Once out of jail, DD decided to run for The US Senate in W. VA. He had a very poor showing in the Republican Party primary election held on May 8, 2018, finishing a distant third. Undeterred, DD has switched parties to the Constitution Party, which he claimed is a better a better fit than the Republicans were anyhow because, in his words, "It is especially appropriate for me to be nominated by the Constitution Party given its staunch and uncompromising commitment to upholding the United States Constitution." DD and *his* new party have now embarked on a petition drive to get his name on the ballot in the general election in November. The announcement of his new intentions was picked up by the Associated Press on June 6, 2018. He has until August 1st, to submit at least 4,537 signatures to the W. VA secretary of state to appear on the ballot. Please excuse the drift somewhat off-topic. It's inevitable overlap. But there is another related issue DD's immoral and shameless behavior exemplifies. Our corrupt system of campaign finance encourages this kind of behavior, as it attracts the wrong sorts of people to politics. You'll see examples of this throughout this book. People like DD wouldn't be tempted if the temptation of Money didn't exist in our elections.

The point is that now even the Judicial branch has become irrevocably partisan, with the Too Bigs, aided and abetted by Money, just like the other two branches. We'll get into a non-partisan Judicial selection plan later in Chapter 13: *While we are at it*. Are the Too Big Parties too big to fail? No, they *have* failed. And, they now appear even more (to borrow Madison's words again) "...disposed to vex and oppress each other than to co-operate for their common good." Witness government shutdowns.

CHAPTER 4

SUPREME PROBLEM

The Ironic Role of the Supreme Court

The original errors of Constitutional omission have made the Court's mission impossible. It's a tough job but, nine somebodies have to do it. Try to put yourself in their shoes. Making the final decision on a case that has been appealed, is by definition, challenging territory. Making that decision automatically makes it the last word of the law. The only way a Supreme Court (SC) decision can be changed is with another SC decision overruling it or, with a constitutional amendment. That makes each decision a solemn responsibility. As a Justice on the Court, with the Constitution as the foundation, with previous court decisions and laws your tools, you are asked to build the logical framework to arrive at your opinion/vote and with the other eight opinions/votes arrive at the decision – ideally, keeping your personal biases out of your reasoning. Under ideal conditions it would be a tough job. Of course, conditions are never ideal. The combined complexity of the contemporary context with controversial heat and political pressure can't help but factor in your decision.

Then, suppose when you look to the Constitution for foundational guidance in deciding the case whose central challenge is that limiting campaign spending is limiting speech, therefore in violation of the First Amendment (FA), and all you have is Article I. Section. 4. That is what confronted the members of the Burger Court when the Buckley et al. cabal brought their case to town. There weren't any earlier Court rulings to speak of either, and those, only tangentially connected to the case before them.²⁶ That put the Justices in an understandable conundrum in the Buckley case: how do you interpret and derive intention from what is not there? In addition, it involved the FA and freedom of speech, which has guarantees of its own. When invoked, it invariably elicits strong emotional responses in some, who then ironically default into absolutism which shuts down the logical, rational and well-reasoned considerations required for an appropriate and lasting decision.

There was however, plenty federal and state law expressing the overwhelming desire of the people to end the corruption of our political process by Money in our elections since the Tillman Act of 1907. The Watergate scandal heightened that desire into a demand. Congress responded quickly with the Federal Election Campaign Act (FECA) Amendment of 1974, which President Ford signed into law on October 15th, 1974, just 67 days after Nixon left office. It amended FECA (1971) to impose comprehensive limits on campaign contributions and spending.²⁷ It also required disclosure of campaign contributions, provided for the public financing of presidential

²⁶ Note: Henry Ford, bless his relentless ways, decided to run for the US Senate in Michigan and lost his first and last run for elected office. He called a foul on his opponent, which through twists and turns ended up before the Supreme Court eliciting a real harbinger of the bad SC decisions to follow, see: *Reform Problem* for more.

²⁷ Note: see *Reform Problem* for more.

campaigns and established the Federal Election Commission (FEC) to enforce the law. A lawsuit was filed in U.S. district Court in 1975 challenging the spending limits as limits on speech. It was appealed to the Supreme Court and arguments were heard that same year. (Strangely enough, the long list of plaintiffs included former US Senator from Minnesota, and several time presidential candidate, Eugene McCarthy, and the ACLU – both of whom, you would think, would have been supportive of the Act’s stronger limits on campaign spending and enforcement measures²⁸. In January of 1976, in a per curiam (of the Court) opinion and judgement, *Buckley v. Valeo*, 424 U.S. 1 (*Buckley*) the SC ruled that the spending limits of the Act were unconstitutional, as they were in violation of the FA, but allowed the limits on the amount of the contributions, the establishment of the FEC and public funding of federal elections to stand.

SC justices are not infallible or omniscient. They are human. Subject to all the pressures and handicaps described above. With their *Buckley* decision, the SC got it very wrong. Allowing them to frame the argument in their own terms, the Burger Court’s struggle with where to draw the lines in disassembling FECA Amendment of 1974 illustrates how the Court contradicted its own arguments.

On one hand, in the Court’s opinion, arguing against expenditure limits:

“The [FECA] Act’s contribution and expenditure limitations operate in an area of the most fundamental First Amendment activities...’it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigns for political office.’ A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating in today’s mass society requires the expenditure of money...”

Here the Burger Court fell right into a trap of circular logic: If restricting money is restricting speech, then money itself regulates speech. You must have money in order to communicate effectively in a campaign. The more you spend the more speech you have. You need money to have your voice heard. Communication *requires* expenditure of money. Thus, speech is not free; you have to buy it.

On the other hand, here arguing for upholding contribution limits, they are in direct contradiction of their own argument for striking down spending limits. “Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from the public awareness of the opportunities for abuse inherent in a regime of large individual contributions. In *CSC v. Letter Carriers*, 413 U.S. 548 (1973) the Court found that the danger to ‘fair and effective government’ posed by partisan political conduct on the part of federal employees charged with administering the law was a sufficiently important concern to justify broad restrictions on the employees’ right of partisan political association. Here, as there, Congress could legitimately conclude that the avoidance of the appearance of improper influence

²⁸ Note: An example of the aforementioned FA absolutism: The notion is that any limit of speech opens the door to more limiting of speech; it sets a precedent, and it could spread. The emotion it elicits is fear. It lowers the *harm* bar so low as to require limbo like tolerance of inciteful speech. It makes for strange political theatre, played out today in places like Charlottesville and Berkeley where “free speech provocateurs” and anti-fascists confront each other, sometimes violently.

is also critical... if the confidence in the system of representative Government is not to be eroded to a disastrous extent.”

Now they admit that money given (in large amounts) looks bad, so its ok to limit it. Even when contributions of Money are not specifically involved, just partisan political conduct, that *might* be construed as an “*appearance* of improper influence” its ok to limit to that activity (which amounts to limiting speech, no?).

Justice Byron White was the only Justice who didn't want any part of the Court's *Buckley* decision. In his dissent he coined the term “money is speech” which is now what *Buckley* is remembered for...the mistake that it was.

One might chalk up the mistake to unmitigated obeisance to the FA; at least on the part of Justices Marshall, Stewart, Brennan and maybe Blackmun. Rehnquist and, certainly Burger and Powell, saw the decision as an opportunity to quell the popular uprising that might just have ended the undue influence of Money in our elections. There was no mistake about it in their minds, and a lot more in Powell's, as it turns out, who was a *Democrat*.

The decision was pivotal in at least two other notable ways. It was one of the last examples where party and ideology were not predictive of the outcome. The judiciary and, the SC, particularly, still clung by a thread to its Constitutionally intended impartiality (as viewed by non-skeptics, that is). After that, ideology and party increasingly fused into one. And, that the SC, its impartiality fig-leaf long gone, now stands out as the most conspicuous and audacious display of both party-ideology fusion and straight-line party politics. The most cogent example of which is that Presidential and Senate seat votes are cast according to a litmus test on *Roe*, for whom the candidate might choose or approve of for *prospective* SC nominees in the next election?!

The other, even more morbid, indicator of the worsening condition of the body politic that *Buckley* signaled, was the rise of a conscious effort to increase the influence of Money in elections, as a way to expand the power of Money to influence law-making and government policy. Associate Justice Lewis Powell on the Burger Court was the chief-architect of this new activist approach for corporate interests that had applications for both the boardroom and the bench. I refer you again to Nichols' and McChesney's (N&M) *Dollarocracy* for revealing who Lewis Powell was and what he did. He took the *Buckley* mistake and doubled down on it for the maximum pay-off for Money, that eventually, through his error apparent for corporatist activism on the Court, John Roberts, to complete Money's coup, for total control of politics.

Lewis Franklin Powell Jr., was the tobacco industry's top lawyer in the 1960s and, long-serving President of the National Bar Association. He sat on the boards of eleven major corporations, was from Richmond, Virginia, and prototypical rich southern gentleman with 'connections' and 'Dixie-Democrat' (now extinct). He was, nonetheless, handed what *he* considered a stinging rebuke from what *he* thought was a typical example of vast anti-business forces, personified by the likes of Ralph Nader taking hold in the country and in the government itself during that period. Congress passed the Public Health Cigarette Smoking Act of 1970 banning TV and radio advertising of cigarettes. That was altogether too much for him. Something had to be done! So, in 1971, Powell composed the memorandum of all memoranda entitled, *Attack on American Free Enterprise System*. The confidential memo was circulated by an associate of Powell's

among the leadership of the U.S. Chamber of Commerce. It was a blueprint for how corporations were to assume their rightful position and take control government through concerted, well-funded, strategic, broad-based and highly organized efforts. Just a few highlights taken from the lengthy *Attack* memo republished in word-for-word extracts by N&M in *Dollarocracy* include:

“The first essential – a prerequisite to any effective action – is for businessmen to confront this problem as a primary responsibility of corporate management. The overriding first need is for businessmen to recognize that the ultimate issue may be survival – survival of what we call the free enterprise system, and all that this means for the strength and prosperity of America...a significant first step by individual corporations could well be designation of an executive vice president...The public relations department could be one of the foundations assigned to this executive...his budget and staff should be adequate to the task...the national television networks should be monitored in the same way that text-books should be kept under constant surveillance...It is still Marxist doctrine that the ‘capitalist’ countries are controlled by big business. This doctrine, consistently a part of leftist propaganda all over the world, has a wide public following among Americans...Business must learn the lesson...that political power is necessary; that such power must be assiduously cultivated; and that when necessary, it must be used aggressively and with determination...”²⁹

According to the meticulously sourced work of N&M this was the spark that ignited a decades long ascendancy of corporate, conservative and libertarian activism. In response to the memo, the US Chamber of Commerce Board sprang into action, inviting corporate big-wigs to town who agreed to work to help implement some of Powell’s key ideas.

One of those at the meeting was Richard DeVos Sr., co-founder of Amway, at that time a new and explosively expanding ponzi-like ‘product’ marketing scheme that was pitched mostly to housewives. My impression of Amway was that it was a little creepy, having witnessed it in my own neighborhood growing up. I remember my Mom being coerced into accepting ‘product’ from one of her friends and complaining about it. It consisted mostly of soap, cleaners and shampoos. In *Dark Money*, Jane Mayer adds a little bio on Amway’s, Richard DeVos, father-in-law of Betsy DeVos, who is currently pretending to be Trump’s Secretary of Education to carry out her not so hidden agenda to dismantle public education. Betsy’s brother just happens to be Erik Prince, the mercenary magnate, founder of the infamous corporation, formerly known as Blackwater. Sorry to digress but, the current context adds to the understanding of Richard DeVos, who was one of the original KC. What this illustrates is the convergence of Stewart Powell’s mighty memo with the whole KB and KC launching and/or supporting a whole phalanx of 130 or more battle units whose examples include: The Heritage Foundation, The Cato Institute, The Tea Party and The Federalist Society (whom we will visit for a closer look, shortly).

Meanwhile Powell was about to embark on his own mission, which he foreshadowed in his formerly, and not until later leaked to Jack, ‘Scoop’ Anderson who put it out in his must-read syndicated column³⁰ and, thus making it no longer a, confidential, ‘*Attack*’ memo. Anderson republished this:

²⁹ Lewis Powell Jr., from Confidential Memorandum, *Attack on American Free Enterprise System*, Richmond, VA 1971

³⁰ Jack Anderson, *Powell’s advice to Business*, syndicated column, September 28, 1972

“American business and the enterprise system have been affected as much by the courts as by the executive and legislative branches of government. Under our constitutional system, especially with an activist-minded Supreme Court, the judiciary may be the most important instrument for social, economic and political change... This is a vast area of opportunity for the Chamber, if it is willing to undertake the role of spokesmen for American Business and, if in turn, business is willing to provide the funds. As with respect to scholars and speakers, the Chamber would need a highly competent staff of lawyers. In special cases it should be authorized to engage, to appear as counsel amicus in the SC, lawyers of national standing and reputation. The greatest care should be exercised in selecting the cases in which to participate, or the suits to institute. But the opportunity merits the effort.” It almost seems as if it was written as a statement of purpose for The Federalist Society (FS).

The formerly confidential ‘*Attack*’ memo had been written and distributed less than a year before Lewis Powell became Associate Justice of the Supreme Court in the first week of January 1972. Now he, himself, had the opportunity to practice the ‘activist-minded Supreme Court’ strategy he preached. It was easy for Powell to capitalize on the *Buckley* blunder to notch his first victory just 4 years later, by taking advantage of the pyrrhic fealty to the FA induced blindness of a few of his colleagues. That gave Money its first big crack.

Then came another opportunity for Powell to practice judicial activism in the First National Bank of Boston v. Bellotti 435 U.S.765 (*Bellotti*) two years later in 1978, as he wrote the majority opinion that gave Money a foot in the door. Massachusetts Attorney General, Bellotti, cited state law disallowing corporation expenditures for political advocacy because 1st Nat’l had done just that, by using funds to influence the outcome of a state referendum to establish a graduated state income tax. The bank filed suit and the usual ensuing appeals unfolded, before it was taken up by the SC. Powell followed his own advice exercising greatest care to exploit *Bellotti* for his own narrow goal. He seized upon a part of Bellotti’s argument which was that corporations were not citizens therefore did not have First Amendment rights, and countered, “The proper question is not whether corporations ‘have’ First Amendment rights...,” Powell wrote, but rather, “...speech that otherwise would be within the protection of the First Amendment loses that protection simply because its source is a corporation...”. Here is the first conveyance from the SC that, “it is speech itself that is protected, regardless of whom is speaking.” The decision was kept within the narrow scope of Referenda. But still, Powell had shoved a foot in the door left open by *Buckley*’s big crack. The same contention, ‘that speech itself that is protected by the FA.’, got picked up later by Justice Kennedy, who wrote for the majority in *Citizens*. Following that logic first laid out by Powell in *Bellotti*, does that mean: if we have to accept that money is speech, then Money, itself – the legal tender -- has FA protection?

Heeere’s Johnny:

Ed McMahon’s wind-up? Or Jack Nicholson’s splintering rendition? Neither. John Glover Roberts Jr. (JR) grew up in a *Father Knows Best* world. His Dad was a plant manager for Bethlehem Steel (BS). JR (Johnny) was another Jr., like Lewis F. Powell Jr. Rosemary Roberts gave birth to Johnny, her only son, in Buffalo, New York at the end of January, in 1955, after two daughters and followed with her fourth, and last child, also a daughter.

Dad, 'Jack' and Mom, Rosemary, moved their family twice early on, following BS orders. But it worked out ok for them because their last move placed Jack in charge of the brand-new BS Burns Harbor, Indiana, plant, which stayed in operation after all other BS plants in the US closed. The Roberts moved up the shore of Lake Michigan from Burns Harbor to Long Beach, Indiana. It was, and is, an all-white, middle to upper-middle class suburb in a beautiful natural setting, with wide white beaches backed by monumental sand dunes sculpted by the powerful and nearly incessant westerly winds off Lake Michigan.

Johnny was a straight-arrow. He excelled in school and, attended a top private preparatory Catholic boarding high school downstate. He played football and was a regional tournament wrestling champion. He went on to Harvard and graduated, summa cum laude, with a history major and, distinguished himself by the excellence of his research and writing. He chose to attend law school, staying at Harvard, over his first choice, which would have been to continue as a history scholar. After law school, where he continued to excel, he chose a path in the judiciary rather than private law and Money, at first. Then he did his money-making stint in private law, before returning to work in the judicial branch. True to his form, he excelled in all the right places.

He was born to the right parents, the right sex, at the right time, in the right place. He attended the right schools and, made all the right personal choices. He obviously applied himself, worked very hard and comported himself with dignity and respect for others, as well as himself.

So, what went wrong? In this context, did his background of privilege preordain or predispose him to make the conscious decision to pick up where his predecessor, Lewis Powell, Jr., left the door open in *Bellotti* to deploy Powell's activist tactics to even greater advantage and, eventual victory for Money masquerading as speech to control our elections – the Money coup? Privilege isn't just an advantage; it can be a handicap as well, caused by isolation from less privileged and the poor in our society. One could say that Martin Luther King, Jr. was relatively privileged too (so, it wasn't just a privileged Junior thing). And FDR was far more privileged than all three of the Juniors combined – so privilege, though it may have been a contributing factor, is likely not the only reason.

Might it have been an affliction of association? The Federalist Society (FS), whose administrative offices are at 1776 I Street NW in D.C.³¹ is definitely the 'right' place for the contagion of conservative judicial activism's incubation and dissemination. FS started out quite humbly by a few law students at Yale University Law School³² in 1982. But it grew rapidly thanks to \$5.5 million in start-up funding from a KC, the Olin Foundation. Quickly Money from

³¹ Note: The address is real. And, the offices were not chosen because of the address. It was merely a coincidence, according to the staffer who answered the phone when I called to inquire. No pre-recorded phone-tree. That has been a pleasant surprise and something in common with all of the KB and KC funded affiliations. Almost as common as the Orwellian names given the affiliations.

³² Note: There has to be something about Yale University Law School. 42 years earlier (springtime 1940) another small group founded the America First Committee to counter FDR's interventionism and promote US isolationism. Its growth mushroomed malevolently into a huge faction that drew in virulent anti-Semites. By August 1941, Charles Lindbergh, de facto leader of America First, was drawing huge rallies in the tens of thousands across the land railing against FDR, his Jewish Cabinet and Jewish inspired interventionists who were going to lead America into war. The attack on Pearl Harbor not only dealt a nearly fatal blow to the US naval fleet it also decimated the *first* America First.

KB and other KCs, Richard Mellon Scaife, and the Bradley brothers, through their respective foundations funneling their Money to affiliated organizations, who jumped on the band-wagon. Today it has grown to close to 60,000 members, with 150 law school chapters, nationally. John Roberts, along with Samuel Alito, Clarence Thomas and Neil Gorsuch are members. Antonin Scalia was a member up until his death. Old-timers, like Ed Meese and Dick Cheney still belong. Trump's public reliance on the FS to produce a list of approved potential nominees for the SC shows what political clout this faction has come to wield. The FS is Lewis Powell's most fervent dream come true. The silhouette of James Madison's bust in profile adorns the FS logo.

Please allow me to back up for a moment. You may not be overly familiar with the *Federalist Papers* (FP). You would not be alone. The papers were written by three men who were prominent voices at the Constitutional Convention, Madison, Hamilton and Jay, to sell their brainchild for ratification. Somebody had to do it. Having just spent the whole growing season decamped in Philly, many of the other framers, who, derived the lion's share of their income from overseeing their agricultural holdings and with harvest upon them, had get back to their properties to oversee it. Hadn't they done more than their fair share already? Madison was the veritable self-appointed scribe-in-chief at the Convention and George Washington's ghost-writer. And, he was author of FP No. 10 (10), which expanded upon Hamilton's FP No. 9 beginning on the topic entitled: *The Union as Safeguard Against Domestic Faction and Insurrection*. Its misunderstanding, is evident in the espoused purpose of the FS³³ and its encouragement of judicial-activism and dogma, which are at the core JR's motives.

In 10, Madison identified faction, which he readily admits are an unavoidable side-effect of democracies and, particularly republics that also pose a real threat (the devil from within). He defines a faction (or party) this way:

"By faction, I understand a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, [not concerned by the rights of other citizens, or by]³⁴ the permanent aggregate interests of the community."

By his definition the FS *itself* is a faction. (It's clear that Madison could not have even conceived of the devolution of factions into the permanent all-powerful Too Big Party system we suffer today.) Madison illustrates the many naturally occurring reasons for factions to arise, and then concludes: "The latent causes of faction are thus sown in the nature of man..." He warned that, as history had shown, factions easily got out of control, were prone to fight each other, or worse; if they got too big or too powerful it had on occasion led to usurpation, insurrection or even collapse of republics and democracies altogether. Internal factious activity, is perhaps a greater risk than external (foreign) forces.

The New Constitution's remedy, Madison explained in 10, were the well-considered and had built-in inherent safeguards. First, it was indeed a republic, *not* a democracy. Choosing representatives offers several advantages, by selecting one person to reason and decide on issues for many, it's more likely to produce qualified people capable of the task (not necessarily); it makes collective decision-making more manageable (scale) but, also, it amalgamates or

³³ *Our Purpose*, from the Federalist Society website: fedsoc.org/about-us

³⁴ Note: the bracketed section was slightly edited for better clarity.

combines personal needs into group interests which more readily allow for discussion and consideration of legislative remedies making them more easily arrived at (hopefully).

And, by extending the republic into a union of states, offered other advantages, simple dilution being primary; many levels from local, to state, to Union gave each interest, faction or party many choices to approach government where the interests of that particular faction could be best addressed. Or, in Madison's words, "Extend the sphere, and you take in greater variety of parties and interests..." and, "The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States." (So Madison hoped, anyway.) There was the Civil War. And, with tragic irony, there are eerie similarities to the JR Court in its *United* decision, explained later, to the Roger B. Taney Court and, its tortured illogic in its Dredd Scott decision, which undeniably contributed to further inciting already hostile factions into war.

The Founding Fathers convinced themselves they did indeed know best. We all know they came from privileged personal backgrounds; inherited wealth was the norm – they were the American equivalent of English noblemen -- they didn't have to convince themselves...they knew, they knew best. Jay and Madison were so wealthy by inheritance, that unlike many of the other Framers they didn't have to get back to the plantation to push their slaves even harder at harvest. Hamilton, the fatherless island boy, (who is said to have persuaded all of his portraitists to alter his nose to appear long and straight (anything but African³⁵)) was obviously an exceptionally ambitious, super achiever and, wanted desperately to rise to privileged status. The three of them took to the task of selling the new Constitution by default. It is conjectured the reason they chose anonymity over personal credit in publishing the FP at first, was so the public would think there were more involved than just those three (especially since they had just carried the ball so much in Philly).

In 10, James Madison echoes the assumptions of privileged entitlement that appear in the Constitution, and seem to refute or contradict Thomas Jefferson's words from a dozen years earlier, in the Declaration of Independence, giving proof to the birth of a national identity and creed: it's obvious we are all equal and in this together, and we choose not submit to a corrupt monarchy, for many reasons, but rather choose to govern ourselves. Our Constitution does it one better though, in the purpose statement/preamble: We shall govern ourselves as best we can and here is our Constitution that lays out the legal framework for us to follow. We citizens wrote it. It's ours.

That's the essence that I believe most of us get. And, I think we'd all agree, given the prevailing paradigms of the times, the Framers did well: they get a solid B. Nobody denies that is not very well written in parts, even ambiguous, and in some places, downright confusing.³⁶ For example, Article. II. Section. 1. Paragraph 3, and its further confounding younger twin, the 12th Amendment, commonly referred to as the electoral college, is an antiquated disgrace. Also, as we have been saying all along; having given bare attention to elections and no attention to

³⁵ The rumors were that his mother, at least visibly, perhaps possessed partially identifiable traits of African lineage. Early shades of Michael Jackson?

³⁶ Sanford Levinson, *Our Undemocratic Constitution*, Oxford University Press, 2006. Note: There are many improvements desperately needed. The legislative processes often have no direction or rules. California has almost 67 times the population of Wyoming; both states have 2 US Senators. It is very difficult to remove manifestly incompetent Presidents, etc.

choosing candidates nor to informing voters was certainly remiss. Again, they were not omniscient. They were the products of their times and were just making it up as they went, following some very rough guidelines...so, should we make that a B+ or A- ? (or, should we give them demerits for downing too many meads over lunch, making for mushy verbiage... a C+ ?)

There was an indisputably undemocratic element that runs through the Constitution evincing the elitist entitlement sentiments of the Framers that has for the most part been corrected by Amendments 13, 14, 15, 17, and 19: No more legal slavery, equal treatment of all, the right to vote is universal and we elect our US senators by popular vote. But Not President! (our 12th Amendment – Repeal and Replace?) for more, see *While We Are at It*.

The FS and JR are still clinging to a thread of the old Fathers' know best elitism to justify their judicial activism. Instead of seeing in 10, for its entitled purpose: an argument for creating a balance between civil liberty and civil order, to contain the apparently inevitable factionalism, the FS and JR pick a single strand Madison wove into his essay. Which I believe an overwhelming majority of us would agree, was merely a parenthetical example, a filament of old Fathers' knows best paradigms of past, not yet fully put to rest, as were some of the others by Constitutional Amendment. (And now, this one will too, it's long overdue.)

In 10, Madison identifies the causes of faction (here somewhat out of context): "But the most common and durable source of factions has been the various and unequal distributions of property." And, dismissing the allure of a pure democracy with: "Theoretic politicians who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions." But the real hook for the FS comes at the close of Madison's discourse: "A rage for paper money, for an abolition of debts, for equal distribution of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it; in the same proportion such a malady is more likely to taint a particular county or district, than an entire State."

If you pull this single hair from Madison's pony-tailed portrait, remove it from its historical context, give it no allowance for the reigning archaic paradigms of the time, take it literally, and attempt to use it to justify judicial activism to protect the wealthy of today, you understand the purpose of the Federal Society.

Fear of losing wealth is the motivator. Since the truly wealthy only comprise less than 1% of the population, in a democracy or republic such as ours, that puts them, as a faction, (which by Madison's definition they definitely are) at a serious disadvantage. They could be taxed more heavily through legislation enacted by the much larger faction, the 99% (or other percentage, if the faction line falls upon the top 10% vs. 90% of the rest of us, etc.). In order to make money, you have to spend money. And it follows: if you have money, you have to spend money, to protect your money. Since the Money faction has no votes, it must buy enough votes to protect its money. The wise approach is exactly what Lewis prescribed in his *Attack* memo: a multi-pronged effort and investment with a great ROI. So, a KC and later joined by KB and more KCs went out and bought themselves a farm team of young, eager (way too eager) jurists just begging to please and, called it the Federalist Society. Brilliant.

If you are an up and coming young jurist, joining the FS may advance your career. If you play partisan ball too, it might land you the right clerkship, then you could go on to serve in any number of positions in any of the three branches of government, or go into private law. After you have “made it”, then, like an alumni association at your alma mater, you can burnish your standing by being seen as a contributing member. Now you are, “giving back”, especially if you have achieved some notoriety. An upcoming event this summer (2018) features Clarence Thomas, as key-note speaker. A young member might be inspired to think, “That could be me some day.” It becomes self-perpetuating.

In order to protect wealth, Money had to be given maximum power in elections. That meant stripping away the remaining vestiges of campaign finance law. It was mission critical. So, why single out JR for excoriation? Didn't it take Alito, Kennedy, Scalia and Thomas to go along? Yes, and that's the point, they went along, following JR's lead. He was (and still is) Chief Justice, but he was also the one who plotted the coup and instigated it. He was the driving force. After his taking his seat as Chief Justice on September 29, 2005, JR started right out of the blocks in tenacious pursuit of his goal. Just nine months after he joined in his Court's decision to strike down a Vermont law because the campaign contribution limit was, according to the Court's opinion, unconstitutionally low.³⁷ Just 364 days later, on June 26, 2007, came the *FEC v. Wisconsin Right to Life* decision and JR authored his Court's majority opinion that McCain-Feingold was unconstitutional because, in order for express political advocacy to be banned, it had to name the names of candidates in the 30 days before a primary or, 60 days before a general election. Splitting hairs? Not according to JR, who famously and, flippantly, concluded his opinion striking down the FEC's ruling, to, “give the benefit of the doubt to speech, not censorship.”³⁸

Seven months before the *Citizens* decision was announced there was the ugly *Caperton v. Massey* mess on June 8, 2009 described at the end of the *Party Problem* section. In his dissent, JR concluded with a high degree of logical improbability, “... a ‘probability of bias’ cannot be defined in a limited way. The Courts new ‘rule’ provides no guidance to judges and litigants about when recusal will be constitutionally required. This will inevitably lead to an increase in allegations that judges are biased, however groundless those charges may be.” Even famous arch conservative lawyer, former Solicitor General, and founding member of the FS, Ted Olson commented, “A line needs to be drawn somewhere to prevent a judge from hearing cases involving a person who has made massive campaign contributions to benefit a judge. We certainly believe that, in this case, acting Chief Justice Benjamin crossed that line.” If one thing is probable, it is that Money has biased JR. Our Chief Justice is willfully blind to the threat to our Union posed by Money. And that's before we examine his performance in *Citizens*.

To recall the earlier Lewis Powell's *Attack* memo segment intercepted and republished by Scoop Jackson, especially the part “...The greatest care should be exercised in selecting the cases in which to participate, or suites to institute.”

Jane Mayer and, legal scholar/writer, Jeffrey Toobin, describe a class of political agitator/litigators who operate in a realm that's close to the campaign-cash-caddies' world or, maybe they're simply a subset. They grovel around trying to kick up the “cases in which to

³⁷ *Randall v. Sorrell*, 548 U.S. 230 (2006). Please refer to our *Sorry Saga* section for more.

³⁸ *FEC v. Wisconsin Right to Life, Inc.* 551 U.S. 449 (2007)

participate, or *suits to institute*.” One of those is, James Bopp, Jr., an attorney from Terre Haute, Indiana whose single largest client is The James Madison Center, whose mission is slightly different than the Federalist Society and whose chief benefactor is the DeVos family foundation although, the Christian Coalition, the NRA and, the National Right to Life Committee have contributed and continue to fund the Center, as well. This particular tax-free entity chooses to let its “general counsel”, Bopp, bop around the political landscape scouring for gems of ‘suits to institute’. His first soft volley-ball set-up for the Roberts Five team was the *FEC v. Wisconsin Right to Life, Inc.*, described above. It’s good to have a warm-up.

Mayer writes in her *Dark Money* masterpiece “...no one took Bopp seriously. With his shaggy gray Beatles haircut and his dogmatic legal style, not to mention his extreme views, he was literally laughed at by one federal judge. At the time, he was arguing that a hyperbolic film attacking Hillary Clinton, who was running for president, deserved the same First Amendment protection as newscasts aired by CBS’s *60 Minutes*.” Who’s laughing now? See how this works? It’s sort of like a syndicate. The Roberts Five Team got another lob from the DeVos family, through its family foundation’s sponsorship of The Madison Center, of course.

The DeVos family wanted to rack-up another victory. So, they colluded with Citizens United, another tax-free organization, and its president and political provocateur, nonpareil, David Bossie. On the current home page for Citizens United.com, it boasts that Mr. Bossie, “took a five month leave of absence to serve as Deputy Campaign Manager for Donald J. Trump for President. He was then named Deputy Executive Director for the Trump Presidential Transition Team.” Jim Bopp, as effective as he had been, was replaced by none other than Ted Olson, himself. DeVos and Bossie knew they had a winner, and they thought by having Ted Olson arguing their case before the SC, it would give them a better look. On March 24, 2009, the oral argument for *Citizens United v. Federal Election Commission* was heard before the SC.

Ted Olson, arguing for the petitioner began:

“...Participation in the political process is the First Amendment’s most fundamental guarantee.”

We are in total agreement here. Even the second sentence out of his mouth:

“Yet that freedom is being smothered by one of the most complicated, expensive, and incomprehensible regulatory regimes ever invented by the administrative state.”

Altered slightly: “Yet that freedom is being smothered by one of the most complicated, expensive and incomprehensible schemes for Money to control government.” would have been a spot-on assessment of the *Citizens* decision.

But at first, Ted Olson was hired to pave way for a narrow incremental step on the way, to yank-out another regulatory impediment, to the free flow of Money. He ended his argument with: **“The government [FEC] cannot prove and has not attempted to prove that a 90-minute documentary made available to people who choose affirmatively to receive it, to opt in, by an ideologically oriented small corporation poses any threat to quid pro quo corruption or its appearance.”**

Olson's petition was very narrow: Bossies' creation, *Hillary, the Movie* wasn't the type of political advertising the BCRA intended to prohibit. "Olson simply sought a judgement that McCain-Feingold/BCRA did not apply to documentaries shown through video on demand," is how Jeffrey Toobin summarized the argument.³⁹ Or so it would appear. Or, it may have been part of an over-arching orchestration too. The perfect lob to the Roberts Five. Maybe they had the whole unfolding, including the scheduling of the subsequent and unusual re-argument, and dumfounding final decision already plotted out? But, probably not.

The March 24th initial argument took an unusual twist during the argument for the FEC by the Solicitor General, Malcolm Stewart, who got caught in a trap or, got gang-tackled by the Five. The preceding back and forth was to determine where to draw the line as to what would be considered campaign advertising by BCRA. Alito got going on the notion that a *book* might be (if a polemic, presumably, or even a meek academic) considered express advocacy, which the BCRA forbids. What then? Kennedy followed that lead with more, which precipitated JR's pounce:

If it's a 500-page book, and at the end it says, and so vote for X, the government could ban that?

Solicitor General, Malcolm L. Stewart (SGMS):

Well, if it says vote for X, it would be express advocacy and it would be covered by the pre-existing Federal Election Campaign Act provisions.

JR:

No, I'm talking about under the Constitution, what we've been discussing, if it's a book.

SGMS:

If it's a book and it's produced – again, to leave – to leave one side of the question –

JR:

Right, right. Forget the –

SGMS:

--the possible media exception, if you had Citizens United or General Motors using general treasury funds to publish a book that said at the outset, for instance, Hillary Clinton's election would be a disaster for this--

JR:

--No, take my hypothetical. It doesn't say at the outset. If funds – here is—whatever it is, this is a discussion of the American political system and, at the end it says vote for X.

SGMS:

Yes, our position would be that the corporation could be required to use Pac funds rather than general treasury funds.

³⁹ Jeffrey Toobin, *Money Unlimited; How Chief Justice John Roberts orchestrated the Citizens United decision*. The New Yorker, May 21, 2012.

JR:

And if they didn't, you could ban it?

SGMS:

If they didn't, we could prohibit the publication of the book using corporate treasury funds.

Book banning, really? Not only did this make Stewart's argument for the FEC's defense of the BCRA look bad, it may also have been the light-bulb moment for JR, when he realized this case had some powerful potential. It could be broadened into a First Amendment case, at the very least.

In the following weeks the Justices discussed the case and circulated draft opinions as they usually do. It became clear the Roberts Five intended to go beyond the narrow original petition and turn their decision into something quite different. JR assigned Justice Kennedy to write the majority opinion, conveniently ducking the responsibility he had originally assigned to himself, before it was clear what the Justices in the Majority really wanted to get out of the decision: striking down campaign finance laws, namely McCain-Feingold (BCRA), by overruling pesky previous SC decisions that prevented the striking down. Justice Souter, who in the meantime had announced his retirement, wrote the dissent. Which, from all reports was scathing of how JR had manipulated the case, reaching beyond the petition and overruling the Court's earlier decisions, not to mention precedents set down in legislation over the past century.

Fearful that Souter's dissent would damage his and, the Court's credibility, JR cleverly decided to announce that the case would instead be scheduled for re-argument on September 9, 2009. That way Souter's dissent wouldn't be made public.

Just to dispel any confusion as to the new parameters for the re-argument the case, JR decided it would be framed by the Court with a set of Questions Presented, in which the Court asked the parties to file supplemental briefs addressing whether it should overrule either or both *Austin* and the part of *McConnell* which addresses the facial validity of [BCRA]. This prompted Justice Stevens' comment, "Five Justices were unhappy with the limited nature of the case before us, so they changed the case to give themselves an opportunity to change the law."⁴⁰

The re-argument, little wonder, offered no surprises. Nor did the decision announced on January 21, 2010. The following are excerpts from the from the syllabus⁴¹ of the Majority Opinion written by Justice Kennedy that give us the essence of decision:

"Because Citizen United's narrower arguments are not sustainable, this Court must, in an exercise of its judicial responsibility, consider [BCRA's] facial validity...this case cannot be resolved on a narrower ground without chilling political speech, speech that is central to the First Amendment's meaning and purpose... a statute that chills speech can and must be invalidated where its facial invalidity has been demonstrated."

⁴⁰ Jeffrey Toobin, *Money Unlimited, How Chief Justice John Roberts Orchestrated the Citizens United Decision*, The New Yorker, May 21, 2012

⁴¹ Syllabus (headnote) prepared by the Reporter of Decisions for the convenience of the reader, from the SC

“*Austin* is overruled, and thus provides no basis for allowing the Government to limit corporate independent expenditures... Given this conclusion the part of *McConnell* that upheld restrictions on independent corporate expenditures is also overruled... [the BCRA’s] prohibition on corporate independent expenditures is an outright ban on speech, backed by criminal sanctions... this Court now concludes that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption.”

“That speakers may have influence over or access to elected officials does not mean that those officials are corrupt. And the appearance of influence or access will not cause the electorate to lose faith in this democracy...”

In Jeffrey Toobin’s most succinct summation: “So, McCain-Feingold, and two Supreme Court precedents, had to be overruled. The Constitution required that all corporations, for profit and nonprofit alike be allowed to spend as much as they wanted in support of the candidates of their choosing.”⁴² It really is Money unlimited. However, the Court left in place the individual campaign contribution limits. They are pretty much meaningless though because, you can buy speech in any other fashion you wish i.e. PACs, Super PACs, and through the plethora of tax-free advocacy end runs (501ers & 527s etc., and religious groups and churches, even – oy vay!) The 57-page Opinion of the Court written by Justice Kennedy amount to 57 varieties of deluding himself and his four cohorts that there is nothing unconstitutional, or remotely harmful about buying speech. It’s perfectly fine. But, the laws limiting and even *banning* purchases of speech are unconstitutional and deserving of indignation, and therefore had to be struck down. This requires an inversion of logic and law. Here are just two of many examples of his/their self-delusion:

“The fact that speakers [Money] may have influence over or access to elected officials does not mean that these officials are corrupt: ‘favoritism and influence are not...avoidable in representative politics. It is in the nature of elected representatives to favor certain policies, and, by necessary corollary, to favor voters and contributors who support those policies. It is well understood that a substantial and legitimate reason, if not the only reason, to cast a vote for, or, make a contribution to, one candidate over another is that the candidate will respond by producing those political outcomes the supporter favors. Democracy is premised on responsiveness.’ *McConnell*, 540 U.S., at 297 (opinion of Kennedy, J).” For Kennedy to quote himself, as he does here, in support of his own argument, is an example of one of those 57 varieties of *Citizens* self-delusional sauce. Kennedy’s self-quote, would be taken by most people as another strong argument against Money in elections, in direct *opposition* of the Court’s Opinion. It is a form of inversion.

Remember the *Caperton v. Massey* case? Much in the same way a perpetrator returns to the crime scene, Justice Kennedy returns to this infamous case in his Opinion of the Court in *Citizens*. It’s the perfect illustration, because it is the confluence, a poster-child, of all that is wrong about Money in our elections in one case, and the Court inverts it to underscore the same argument it was attempting to make above. Here is Kennedy again with his own rope:

“The appearance of influence or access, furthermore will not cause the electorate to lose faith in our democracy. By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate. [*Buckley*] The fact that a corporation, or any

⁴² Jeffrey Toobin, Money Unlimited; *How Chief Justice John Roberts Orchestrated the Citizens United Decision*, The New Yorker, May 21, 2012

other speaker, is willing to spend money to try to persuade voters presupposes that people have the ultimate influence over elected officials. This is inconsistent with any suggestion that the electorate will refuse “to take part in democratic governance: because of additional political speech made by a corporation or any other speaker. [*McConnell* quoting *Shrink Missouri Government*].

[*Caperton v. Massey*] is not to the contrary. *Caperton* held that a judge was required to recuse himself ‘when a person with a personal stake in a particular case had a significant and disproportionate influence in placing a judge on the case by raising funds or directly directing the judge’s election campaign when the case was pending or imminent.’ The remedy of recusal was based on a litigant’s due process right to a fair trial before an unbiased judge. *Caperton*’s holding was limited to the rule that a judge must be recused, not that the litigant’s speech might be banned.”

At the risk of repetition, I hope, you will understand why it’s important to revisit *Caperton*. But this time, it is Justice Stevens, who dragged his younger colleagues, one-by-one to the woodshed for the verbal spanking they so richly deserved for their imperious Opinion and Concurrences, in his dissenting Opinion of the *Citizens* decision. Justice Stevens⁴³:

“The insight that even technically independent expenditures can be corrupting in much the same way as direct contributions are bolstered by our decision last year in *Caperton v. Massey*. In that case Don Blankenship, the chief executive officer of a corporation with a lawsuit pending before the west Virginia high court, spent large sums on behalf of a particular candidate, Brent Benjamin, running for a seat on that court. In addition to contributing the \$1,000 statutory maximum to Benjamin’s campaign committee, Blankenship donated almost \$2.5 million to, “And for The Sake of The Kids,” a 527 corporation that ran ads targeting Benjamin’s opponent. This was not all. Blankenship spent, in addition, just over \$500,000 on independent expenditures to support Brent Benjamin. Applying its common sense, this Court accepted petitioner’s argument that Blankenship’s pivotal role in getting Justice Benjamin elected created a constitutionally intolerable probability of actual bias, when Benjamin later declined to recuse himself from the appeal by Blankenship’s corporation. Though no bribe or criminal influence was involved, we recognized that Justice Benjamin would nevertheless feel a debt of gratitude to Blankenship for his extraordinary efforts to get him elected. The difficulties of inquiring into actual bias, we further noted, simply underscore the need for objective rules, which will perforce turn on the appearance of bias rather than its actual existence.”

“In *Caperton*, then we accepted the premise that, at least in some circumstances, independent expenditures on candidate elections will raise an intolerable specter of *quid pro quo* corruption. Indeed, this premise struck the Court as so intuitive that it repeatedly referred to Blankenship’s spending on behalf of Benjamin – spending that consisted of 99.97% expenditures (\$3 million) and 0.03% direct contributions (\$1,000) – as a “contribution,” “the basis for the recusal motion was that the justice had received campaign contributions in an extraordinary amount from Blankenship”; “referencing Blankenship’s \$3 million contribution”; “Blankenship’s campaign

⁴³ This portion of Justice Steven’s Dissent has been edited somewhat for the convenience of the reader. It is a faithful word-for-word quotation, but many of the references to other cases have been eliminated and, some internal quotation marks have been deleted. The full text is available from many sources. This one follows the original published by the Supreme Court of the United States, No. 08—205. Argued March 24, 2009 – Reargued September 9, 2009 – Decided January 21, 2010

contributions...had a significant and disproportionate influence on the electoral outcome.” The reason the Court so thoroughly conflated expenditures and contributions, one assumes, is that it realized that some expenditures may be functionally equivalent to contributions in the way that they influence the outcome of a race, the way they are interpreted by the candidates and the public, and the way they taint the decisions that the officeholder thereafter takes.”

“*Caperton* is illuminating in several additional respects. It underscores the old insight that, on account of the extreme difficulty of proving corruption, prophylactic measures, reaching some campaign spending not corrupt in purpose or effect, may be nonetheless required to guard against corruption. It underscores that certain restrictions on corporate electoral involvement may likewise be needed to hedge against circumvention of valid contribution limits. All Members of the Court agree that circumvention is a valid theory of corruption. It underscores that for-profit corporations associated with electioneering communications will often prefer to use nonprofit conduits with misleading names, such as “And for The Sake of The Kids”, to conceal their identity as the sponsor of those communications thereby frustrating the utility of disclosure laws.”

“And it underscores that the consequences of today’s holding will not be limited to the legislative or executive context. The majority of the States select their judges through popular elections. At a time when concerns about the conduct of judicial elections have reached a fever pitch, the Court today unleashes the floodgates of corporate and union general treasury spending in these races. Perhaps “*Caperton* motions” will catch some of the worst abuses. This will be small comfort to those States that, after today, may no longer have the ability to place modest limits on corporate electioneering even if they believe such limits to be critical to maintaining the integrity of their judicial systems.”

The final insult by inversion delivered by the Roberts Five in their *Citizens* decision:

“The Court has recognized that the First Amendment protection extends to corporations.”

This moral inversion has its own kind of Supreme Court precedence. Our Supreme Court has shown itself to be supremely capable of illogic when it has attempted to preserve an institution that is inherently corrupt. Twice in our nation’s history the Court has put itself in such an untenable position. Both decisions have been doubly insulting to the nation’s conscience; not just for the perversion of our founding principles, but for undermining our faith in the Court itself. In 1857 our Supreme Court, under Chief Justice Roger B. Taney, after having argued, and reargued the case, handed down in its infamous Dred Scott decision what amounted to a moral inversion. The Court’s immoral conclusion that all people of African descent who had been held as slaves, and their descendants, were not citizens of the United States, and therefore, had no Constitutional rights, set off a maelstrom of public indignation that led to the Civil War. Ironically, the Taney Court, in its tragically misguided attempt to preserve the institution of slavery, instead contributed significantly to its demise.

With a similar sense of irony, we should express gratitude to John Roberts and his four activist colleagues on his Court for their reargued *Citizens* decision (they had to take two swings at the piñata to get all that unlimited campaign cash to rain down). The insulting moral inversion in *this* decision was not to deny people of their constitutional rights as with the Dred Scott decision,

but rather to confer upon corporations a Constitutional right to use unlimited funds to buy speech, or, *as we have pointed out, to buy votes*, in our elections.

Our gratitude to the Roberts Court is due, because the ruling is so outrageous, such a perversion of our basic principles, that it will provide the impetus for you and me, and for all of us who want our elections free from the corrupting influence of Money, to amend our Constitution because the *Citizens* decision has made it imperative.

CHAPTER 5

REFORM PROBLEM

Our Sorry Saga of campaign finance reform

The following mostly chronological compilation will illustrate by example, the futility of merely reforming or regulating the private financing of public election campaigns. Even the term very term, campaign finance *reform*, implies low expectations. Despite near universal, over a century long public demand to fix the corrupt system, instead, you will see from past legislative attempts that regulation invites manipulation. Politicians have indeed produced, “more loop-hole than law” as LBJ put it back in 1966, because the politicians are *in the game*. What would we expect if the players officiated and were allowed to “call their own fouls” in the NBA finals?

The Too Big Parties are the teams, out to win at all costs, “more disposed to vex and oppress each other than to cooperate for their common good.”⁴⁴ They are stuck. They controlled the levers of power but they jammed the gears so much, and broke off so many teeth in the process, for the gears to ever engage again.

You have just seen that the refs, our Supreme Court, have done a really lousy job calling the game. They have shown an alarming propensity to make such bad decisions when it comes to the campaign Money game, you’d swear they had huddled behind their bench to make Money the winner by choosing the cases soft-balled to them from the Federalist Society’s phalanx of advocates, and completely ignoring the people’s call for more than a century, to demand fair elections. Please beware, if you choose to wade through murky lagoon of campaign finance past. It won’t be a pleasant trip, but it will be highly beneficial in flagging what pitfalls to avoid.

By the end of the Gilded Age scandals involving campaign cash were common. Republican National Committee Chairman, Mark Hanna, actually devised a system of assessing larger corporations a percentage of their annual gross to fund William McKinley’s campaign for President in 1896. Teddy Roosevelt was elected president in 1904 riding a wave of indignation over the orgy of excesses unbridled capitalism unleashed preceding its inevitable crash, inevitably crushing many, mostly poorer people, of course. He pounded the bully pulpit to stop corporate cash corruption of federal elections. Teddy himself, it was later embarrassingly revealed, was a recipient of large campaign cash contributions from banks and corporations, but undaunted (or maybe to prove himself not corrupt), he charged on. In a 1905 address to Congress T.R. famously declared, “All contributions by corporations to any political committee or for any political purpose should be forbidden by law.” Then South Carolina Senator, big Ben “Pitchfork Ben” Tillman (a virulent racist and “Mr. Jim Crow”) got involved, culminating in the Tillman Act in 1907. With that most unfortunate moniker, it became the nation’s first real law to control corporate money in elections. It should be noted however, that there were many such laws already on the books enacted by various state legislatures.

⁴⁴ James Madison, Federalist Paper No.10

The Tillman Act, written in bold, straight-forward, seemingly unambiguous language, prohibited corporations and banks from making campaign contributions in federal elections. It even spelled out sentences and fines for infractions. And yet, it was incomplete (giving allowances for it being the first attempt); no method of enforcement was its chief omission, and no limits on personal or private contributions another.

These loopholes were quickly discovered and exploited, followed by attempted legislative remedies. The Federal Corrupt Practices Act (FCPA) / The Publicity Act of 1910 required that campaign contributions to and by political parties in elections to the House be publicly disclosed. In 1911 it was amended to expand disclosure requirements for Senate elections, including primary elections and also set limits on campaign expenditures of \$5,000 that a candidate for the House could make and \$10,000 for a Senate candidate. There were unfortunately no limits placed on party expenditures. Even if expenditure reporting by candidates and parties was timely, truthful and thorough, enforcement mechanisms were sadly still left lacking. There was no set formula for making the spending reports public. When expenditures were publicized they showed that both parties and candidates did indeed rely on large donations, but it did not curtail them.

The more puzzling aspect of these laws, are the big loopholes that were left even as they were being amended, ostensibly to address the inadequacies. Why did our ancestors in the Congress ban corporate and big bank money and let money through personal contributions flow without limit? Why did they limit candidates' expenditures but not the parties' spending? Finally, without providing for enforcement, why did they expect their rules would be followed? Wasn't it apparent in the 4 years that had transpired from the enactment of the Tillman Act until it and the FCPA/Publicity Act were amended that these loopholes seriously undermined the efficacy of both pieces? Maybe it was the best that could be expected of first efforts – they just didn't know any better at the time. But as it was mentioned earlier, these were not exactly prototypes. In fact, the Publicity Act was named after a national lobbying group, the National Publicity Law Association, which had already successfully brought about a law in New York State after which the Publicity Act of 1910 was modeled. None other than the estimable Elihu Root, Secretary of War, State, US Senator and Nobel Peace Prize recipient was the chief architect of the reforms culminating in the Publicity Act. We must assume he knew what he was doing. His aim was not to ban private sponsorship of electioneering, just the corrupting influence of corporate money and large gifts.

As a tool to limit the influence of certain money, merely disclosing who gave whom what when may be instructive, but it is not effective. It did not achieve the desired results then, nor does it now.

In 1918 Henry Ford ran for the U.S. Senate. He lost in the Michigan Republican Party primary to Truman Newberry, who went on to become U.S. Senator. But Henry had called prosecutorial attention to Newberry's campaign expenditures, which it turned out were in excess of \$100,000 or at least \$86,000 (1918 dollars) over statutory limits of U.S. FCPA/Publicity Act and Michigan law just in his primary contest with Ford. Just imagine, outspending Henry Ford.

Although he was convicted, Newberry managed to appeal and his case quickly reached the Supreme Court challenging the constitutionality of the FCPA. On May 2, 1921 his conviction

was reversed, all Justices agreed, in part, because the district court's instruction to the jury was in error. Deciding on a 5/4 vote the Supreme Court struck down the 1911 amendment to the FPCA/Publicity Act, which extended spending limits to primary elections, as unconstitutional. The majority cited the sparse mention in the Constitution of actual election mechanics in Article I, Section 4: "The Times, Places and Manner of holding Elections for Senator and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such regulations, except as to the Place of Chusing Senators..." which they narrowly interpreted to mean that the Congress does not have the power to regulate state primary elections because they were yet unknown at the time the Constitution was adopted and primary elections are party nominating procedures, not the constitutionally prescribed elections described in Article I.

Dissenting from the majority opinion, Justice Pitney wrote, "It is said primaries were unknown when the constitution was adopted. So were the steam railway and the electric telegraph... but the authority of the Congress to regulate commerce was extended over these instrumentalities..." and, "...primary elections and nominating conventions are so closely related to the final election, and their proper regulation so essential to effective regulation of the latter, so vital to representative government, that power to regulate them is within the general authority of Congress."

That Mr. Newberry so blatantly ignored federal and state campaign finance laws illustrates what deterrent effect they had on the influence of money on elections. None.

That a narrow and awkward interpretation of the Constitution in the Supreme Court's first foray further hampered an already ineffectual campaign finance law was a harbinger. Sad.

Another harbinger of sorts was the Federal Corrupt Practices Act of 1925. It started a pattern of Congressional actions to regulate campaign contributions in response to particularly egregious scandals. In this case it was the Teapot Dome Scandal. Albert Bacon Fall, President Harding's Secretary of the Interior, leased out an oil field on federal land near Teapot Rock in Wyoming without competitive bidding to Sinclair Oil after receiving a large "loan" from Sinclair's owner Harry Sinclair. Fall did the same for tycoon, Edward Doheny, for another oil field at Elk Hills, California. All three were prosecuted and indicted on various counts, but only Fall was convicted and sentenced. You might wonder if this might have been the origin of the terms "fall guy", and "bringing home the bacon". It was not.

The Teapot Dome scandal was definitely the expressed motivation of Congress for the FCPA of 1925. The public was outraged by the scandal and demanded an end to government corruption. The Congress responded by addressing the purported root of government corruption; under- and unregulated campaign finance. The law was really little more than an update of the 1911 amendments to the 1910 FCPA/Publicity Act. It made disclosure of all campaign contributions over \$100 mandatory, required quarterly disclosure reports and actually raised spending limits to \$5,000 for House candidates and \$25,000 for Senate candidates.

It still did nothing to close the obvious loopholes left in the previous legislation, i.e. no limit on personal contributions or party spending, no audits and no enforcement procedures. Was this a pattern of intentional neglect? Were the loopholes sewn in by design, or was it merely habitual incompetence?

In the ensuing two decades the pattern of piecemeal congressional action in response to scandals continued. But by this point, the source of the scandal had shifted to labor. In 1936, John L. Lewis, President of the United Mine Workers of America, (and founder of the CIO) wanted a photograph taken of him presenting President Roosevelt with a check for \$250,000 in support of FDR's reelection campaign. Roosevelt demurred fearing such a photo would be construed as his being a tool of labor. There was no "photo-op", but Lewis and the UMW eventually contributed a total of \$500,000 to FDR's campaign.

The Hatch Act of 1939 restricted federal employees' political activities and prohibited them from engaging in partisan political patronage. It was amended the following year, which included the setting of annual ceilings of \$3 million for political party expenditures and \$5000 for individual campaign contributions. What was scandal which brought about the Hatch Act and its subsequent amendment? It was the disclosure that WPA officials were using their positions and heavy-handed tactics, i.e. awarding jobs, favors, and contracts in return for votes and using coercion to get people to donate money to the Democratic Party.

In 1943 a series of coal strikes threatened to seriously hamper the war effort. The Smith-Connally/War Labor Disputes Act was passed and enacted overriding President Roosevelt's veto. The law not only authorized the government seizure and operation of industries critical to the war effort that were under strike but also prohibited unions from making campaign contributions in federal elections.

Section 304 of the Taft-Hartley Act of 1947 reads, "It is unlawful... for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election... or in connection with any primary election or political convention or caucus to select any candidates for any of the foregoing [federal] offices...". The Smith-Connally Act did not include this ban of contributions in primaries (perhaps because the bill was hurriedly passed in response to the strikes in 1943). Two years earlier, in 1941, in the Supreme Court ruling *United States v. Classic*, the Court overturned its earlier finding in *Newberry v. United States* that Congress does not have constitutional authority to regulate primary election campaign contributions. The authors of the Taft-Hartley Act corrected this oversight in the Smith-Connally Act.

Although both the Smith-Connally and Taft-Hartley Acts were not primarily campaign finance laws, the inclusion of union money bans illustrated that both parties and both sides of the labor/management struggle acknowledged the money is power nexus. Labor had achieved parity; its abuse of money to buy power was recognized as a threat. Henceforth, unions would have to use the same loopholes corporations had exploited since the Tillman Act of 1907.

The one positive note of this period was that *United States v. Classic* showed that the Supreme Court was capable of correcting an earlier mistake. Maybe there is hope that the Roberts Court disaster of *Citizens United* will be overturned. But that will require new faces on the court. The current personnel responsible for the fiasco are too young to offer any realistic chance of this remedy worth pinning our hopes on before more significant damage is done. Waiting is not an option.

In a written statement accompanying the signing of the Presidential Election Fund Act of 1966 (a precursor of the taxpayer check-off/matching funds system we have today) President Johnson pressed Congress to pass additional legislation, the proposed Election Reform Act, which he stated was aimed at, "...systematically overhauling our campaign financing laws – which are now more loophole than law." Today, forty-four years and many attempts at legislative remedies later, the "more loophole than law" legacy looms large, as ever. Is it reasonable for us to expect Congress to defy its historical habit and now establish elections that cannot be corrupted by campaign cash? There are those, (5 on the bench are not alone) who actually see a clear advantage for the vestibules of capital to outspend opposition for political and economic gains. Actually, most businesses would probably just as soon not have to play the game. Only the biggest, most audacious, most competitive, worst advised, means to the enders, those caught in their own corporate culture nightmare that has habitually institutionalized lobbying addiction, or those who are fearful and/or paranoid of being outmaneuvered and losing position, market-share, profit, status want to or feel a need to outspend the perceived opposition. Many of them see fine returns on their expenditures, at least in short term, (ethical, societal, environmental and other long-term considerations and costs aside, of course).

Then came the 1970s. The Federal Election Campaign Act (FECA) of 1971 was an attempt by some at reform of the loophole legacy. For other legislators it was yet another challenge to stealthily implant the next generation of loopholes. FECA in its first incarnation was a blend of some reform and mostly rehash with a bold dash of loopholes.

In the reform column there were some new things. FECA set limits on expenditures for media advertisements. For example, it capped television advertising expenditures for Senate races at 10 cents per vote in the previous election or \$50,000 whichever was higher. These limits were short-lived however, as they were soon repealed.

In the rehash department there were a few more items: disclosures of expenditures and contributions were made more thorough involving the General Accounting Office and the Justice Department for ostensible enforcement, FECA set new limits on the amount of personal funds candidates could spend on their own campaigns, specifically defined elections to include primaries, caucuses and conventions, and carefully defined contributions and expenditures. In the related Revenue Act which picked up the dropped Presidential Election Fund Act of 1966 and authorized Federal financing of Presidential election campaigns through the IRS tax return form check-off box system.

In the loophole realm, both intended and unintended, it exempted regulation of contributions and expenditures related to voter registration and get-out-the-vote activities that did not advocate for specific candidates. FECA also allowed unions, corporations and other groups to establish committees to solicit voluntary donations from employees and members, held separately from general treasury funds, to be contributed in Federal election campaigns, i.e. political action committees. This unleashed the "PACS on both of our Houses" (pun intended) and our State Houses, and our Courthouses, and our Whitehouse.

The Watergate scandal prompted a serious effort at real reform through amendments to FECA in 1974. The Federal Election Commission (FEC) was established to enforce federal election law with specific penalties and authority to issue binding opinions. New contribution limits were combined with expenditure limits placed for each federal office in both primary and general

election campaigns. This was forward movement. Reformers were on a roll. But almost immediately two huge backfires stopped the illusion of progress dead in its tracks.

First, the newly formed FEC wasted no time exercising its authority to issue an opinion, involving a dispute brought by the Sun Oil Corporation and its PAC in 1975, which expanded corporate PAC activities to include solicitation of employees as well as stockholders. It seems that the labor unions and Democrats had figured that the PAC loophole would benefit them more than the corporations and Republicans. After all, John L. Lewis formed the first PAC in response to the ban placed on campaign contributions from unions in federal elections by the Smith-Connally Act. Now, their clever invention would be used to the greater advantage of corporations and the Republicans.

The second, deafening and debilitating backfire came from the Burger Court, which handed down its ruling in the Buckley v. Valeo case at the end of 1976. James Buckley (Republican Senator from New York) and Eugene McCarthy (former Senator from Minnesota and perennial Presidential candidate) et al. challenged important components of the 1974 FECA amendments as unconstitutional, naming Francis Valeo as the chief defendant in his role as Secretary of the Senate and ex officio member of the FEC.

The court ruled that campaign contribution limits set in the 1974 FECA amendments, and the disclosure requirements on those contributions were allowable under the constitution. But limiting expenditures made by any person or group or by any candidate, whether of contributed funds or from personal wealth, was ruled in violation of the First Amendment. In the Per Curiam (of the court) Opinion the Justices wrote, "...virtually every means of communicating ideas in today's mass society requires the expenditure of money." Justice Thurgood Marshall seconded that in his dissenting [in part] opinion, "One of the points on which all members agree is that money is essential for effective communication in a political campaign." That assessment is as true today as it was in 1976. But it was a huge, logic defying, leap from that axiom to finding that limiting spending is limiting speech -- especially since the spending ceilings would have affected everyone equally.

Justice Byron White, in his dissent, famously encapsulated the illogic of the Court's decision, "As an initial matter, the argument that money is speech, and that limiting the flow of money to the speaker violates the First Amendment proves entirely too much." The "money is speech" coinage has become the damning tag line for Buckley v. Valeo. But the legacy of this decision has been more much more harmful to our democracy than the mere absurdity that "money is speech" would imply. Because the size and source of contributions were regulated but spending was limitless, it created a vacuum, which encouraged circumvention of the regulations. In other words, the Supreme Court decision catapulted campaign corruption rather than protecting the First Amendment rights of politicians. In addition, the justices showed utter disregard for the principles of fair and equal treatment and equal opportunity for access to the political arena by heavily tipping the scales in favor of those groups and individuals with the most money. This decision has not only adversely affected candidates and prospective candidates, but all of us. It perpetuated the maxims that money talks and we, the average citizens, have no voice.

The hard lesson here is that even if Congress tackles the corruption of our elections honestly, as it really did in the wake of Watergate with the 1974 amendments to FECA, we cannot trust the Supreme Court on this issue. The Court's blind allegiance to the First Amendment makes it

blind to the corruption, which threatens the very core of our democracy and the integrity of First Amendment itself. If money is speech, then speech is not free -- it's for sale, and our First Amendment rights go to the highest bidders.

In response to *Buckley* the Congress again amended the FECA in 1976 to allow for the unlimited expenditure of campaign cash and to provide for presidential selection of Federal Election Commission members by and with the advice and consent of the Senate. Other members of the commission, the Secretary of the Senate and Clerk of the House, with its duties to police federal election campaigns were also set out. In addition, the 1976 Amendment established new limits on donation amounts an individual or party may make and a whole slew of penalties, along with reporting regulations. The big development was the presidential campaign matching fund system, which is now functionally obsolete because its limits are just too paltry -- a serious presidential contender just can't afford to take free money anymore.

In 1979 FECA was further amended to allow money to be received and spent by political committees and parties without formal connection to a candidate or campaign. Upon signing the amendments into law in January of 1980, president Jimmy Carter wrote in his signing statement, that the measure would improve FECA, "by eliminating burdensome regulation of candidates and political committees and by increasing the opportunity for grassroots political participation." What instead resulted was that the parties and outside groups got a green light to pour money into elections (and to promote legislation) in a form that was to become known as, "soft-money". In time, the "soft-money" loophole became such a scourge that it gave rise to the last serious congressional attempt at campaign finance "reform" the Bi-partisan Campaign Reform Act (BCRA aka McCain/Feingold – so named after its authors) whose final unravelling culminated in the infamous *Citizens United v. FEC* ruling.

As a point of reference, in 1980 (a presidential election year) it was estimated that the total national general election campaign spending was 192.1 million dollars, according Victor W. Geraci, in a study published for the Connecticut Public Affairs Network.

The 1979 FECA amendments had limited expenditures to \$1000 for any organization on behalf of candidate who had not authorized the organization to do so. In 1980 the FEC attempted to penalize the National Conservative Political Action Committee (NCPAC) for violating the \$1000 spending limit. NCPAC appealed and the case ended up before the Supreme Court where a final decision on March 18, 1985 found the limits on expenditures such as these were in violation of the First Amendment. Thus, the Supreme Court, in their *FEC vs NCPAC* decision turbo-charged the PAC and "soft-money" fueling of campaigns and lobbying for legislation as well.

In August of 1986 U.S. Senator David Boren of Oklahoma, offered an amendment to a bill that would have sharply reduced the amount of PAC money candidates could receive. In a strong majority of 69 votes, 26 of which came from Republicans the senate approved the measure. But Bob Dole, then Senate majority leader, blocked a vote on final passage of the amended legislation, and his determination to kill the measure finally prevailed – it never came up for vote again in that session. The top-down authoritarian majority party agenda control was on full display here, and Bob Dole was certainly on top of his top-down game. And it has only gotten worse since then. For more on this sad progression please see our *Party Problem* chapter.

Frustration with the money juggernaut is nothing new, of course, and even the realization that the only real solution is through a constitutional amendment since *Buckley* made it imperative (barring the Court's self-correction by overturning it). The first evidence of this frustration fulminating in the Senate came in the 1988 vote with 5 Republicans joining 48 Democrats to amend the Constitution to reverse *Buckley* and return authority to the Congress to limit campaign spending. Granted that was still 13 votes short of the threshold needed for a constitutional amendment, but it illustrates that the realization of a need for a constitutional amendment was in the minds of a strong bi-partisan majority in the Senate already in 1988 and didn't just start with the Roberts Court's *Citizens* nonsense.

Yet the Supreme Court has not been totally devoid of reason on this most vexing of logical conundrums. *Austin v. Michigan Chamber of Commerce* is a case in point. The state of Michigan Campaign Finance Act banned the use of corporate treasury money on, "independent expenditures to support or oppose candidates in elections for state offices". (Yes, state and local governments also understand and have an interest in regulating campaign spending – it's not just the purview of Congress.) The Michigan Chamber of Commerce placed an ad in a local paper to support a candidate for the Michigan House of Representatives. Had the Michigan Chamber of Commerce been able to take advantage of a loophole in the Michigan Campaign Finance Act that allowed corporations to maintain a special segregated fund from which to make expenditures supporting or opposing candidates for public elected office there would have been no challenge and no case. But the Michigan Chamber of Commerce had not done so, they paid for the ad right out of their general funds. When challenged, the Chamber claimed that the Michigan Campaign Finance Act was in violation of their freedom of speech guaranteed by the First Amendment and equal treatment under the Fourteenth Amendment (more on that one later).

On March 27, 1990 in a 6-3 decision, the Court upheld the Michigan Campaign Finance Act. In the majority opinion, Justice Thurgood Marshall wrote, "they are justified by a compelling state interest: preventing corruption or the appearance of corruption in the political arena by reducing the threat that that huge corporate treasuries, which are amassed with the aid of favorable state laws and have little or no correlation to the public's support for corporation's political ideas, will be used to influence unfairly election outcomes." This is as good an argument as can be made for what we consider to be the next logical step – remove money from the election process, entirely. Instead, what ensues is the endless parsing and entanglements of logic in deciding what kind of expenditures are allowed and which are not, because of the illogic that expenditures of any kind are deserving of First Amendment protection.

What was a particularly egregious example of entangled logic in this case was the argument by the Chamber that the Michigan law was in violation of the 14th Amendment because it allowed unions to make expenditures in support (and/or opposition) of candidates in elections for public office from its general treasury funds but disallowed the Chamber from doing the same. Here the Court held that the Michigan campaign finance law had carved out an exception for corporations to have a special pocket for such funds from which to make expenditures – and the Chamber did indeed have such a designated pocket – it just chose not to use it in order to test the law. So, in the opinion of the Court the law was applied fairly, no violation of the 14th Amendment here, essentially via a loophole.

In a broader sense, it is our view that the 14th Amendment should be applied to campaign expenditures in general. How can it be equal treatment to give person or party (A) First

Amendment protection to make unlimited campaign expenditures, when person or party (B) has no ability to make any campaign expenditures at all? In order to be able to apply equal application of the First Amendment in election campaigns all voices must be guaranteed First Amendment protection. The only way to accomplish this is in a fair, free and open election forum where all voices are treated the same – where speech is truly free, not paid for.

The entire decade of the 1990s was awash in numerous thwarted and/or ineffectual attempts by Congress in each session, and in state legislatures every year across the land to stem the tide of money that was drowning system.

For instance, the *Austin v. Michigan Chamber of Commerce* decision found its way to inclusion in the Campaign Finance Reform Act of 1993 by the state legislature of Minnesota. While for-profit corporations had been barred from making contributions and expenditures in election campaigns the Minnesota legislature had become concerned that some corporations, organized as non-profits, were actually engaged in significant business activity. Some health insurance companies and health maintenance organizations were multi-million-dollar businesses, but organized as non-profit organizations rather than for profit corporations. These “non-profits” were very active in contributing to political campaigns and lobbying the legislature. The Campaign Finance Reform Act of 1993 extended the prohibition on corporate contributions to political campaigns for non-profit organizations. Later, in 1996 the legislature was forced to change the law because of a successful court challenge by a non-profit, Minnesota Citizens Concerned for Life (MCCL) to amend the Minnesota Campaign Finance Reform Act to apply contribution prohibitions only to those non-profit organizations that were, “organized or operating for the principal purpose of conducting a business”.

This example shows the inordinate expense and effort such cases consume both in the legislatures and courts all because we citizens don't have the guts to stand up for what we know is right and get money out of politics once and for all. The excuse that we have no choice but to continue on this absurd path because, “this is the reality we live in” does not hold up because we now have a viable alternative path to choose. The cost of politics as usual has become unbearable. As these examples illustrate; we have been trying incessantly to “limit” the corruption of money in our elections, and nothing works. The only way we can hope to achieve effective governing is to get money out of our elections completely.

Back in Washington in May of 1992 the House and Senate managed to squeeze out a campaign finance bill on mostly party line votes that would have provided partial public financing for Congressional candidates who voluntarily accepted fundraising restrictions. The loophole riddled bill included some restrictions on soft-money for presidential campaigns and some limitations on PACs. It was summarily vetoed by President Bush and died as it was far from an override majority that had passed it in the Senate. Critics on both sides of the political divide pointed out its flaws, and decried the veto as a less than sincere efforts to placate the masses disgusted with ever increasing campaign cash corruption.

In 1994 the Democrats tried to revive a bill that would have offered partial public funding for Congressional races but couldn't get it past Republican opposition. This was the last half-hearted attempt at a half-baked public financing scheme. Please allow us here to reiterate our opposition to public financing prepared in any form that allows the status quo hamburger-helper

hot-dish campaign presentation and merely drizzles public money on top. Campaign attack ads paid for with tax-payer money? No way!

Spending on the Congressional and Presidential campaigns in 1996 topped 2 billion dollars, almost double what had ever been spent before on any election. 1996 was in many ways a watershed year for dismantling the vestiges of campaign finance reform and, as the increased spending would indicate, it was a banner year campaign cash corruption. “Pure and simple, this year the wheels came off,” noted a dismayed Fred Wertheimer, former president of Common Cause, who had worked for over twenty years by that time on campaign finance issues.

Our friends on the Supreme Court decided on June 27, 1996 that the Federal Government may not limit how much political parties spend to help candidates unless it specifically proves that the party and candidate are working together. The plain absurdity of such a notion was made clear later during the campaign by the Republican Presidential candidate, Bob Dole, when he was teased about an advertisement that was devoted entirely to his biography but never mentioned explicitly that he was running for President. “I hope that it’s fairly obvious,” the candidate joked, “since I’m the only one in the picture.” Justice Stevens, always good for a pithy dissent on these issues, wrote in opposition to the Colorado Republican Party v. Federal Election Commission decision, “It is quite wrong to assume that the net effect of limits on contributions and expenditures – which tend to protect equal access to the political arena, to free candidates and their staffs from the interminable burden of fund raising, and to diminish the importance of repetitive 30-second commercials – will be adverse to the interest in informed debate protected by the First Amendment.”

“What was most extraordinary this year was the way everyone – Democrats, Republicans, corporations, everyone – thumbed their noses at the law,” observed Ellen S. Miller, executive director of the Center for Responsive Politics, a nonprofit non-partisan organization that tracks campaign finance issues. “The law puts up minimum hurdles,” Ms. Miller continued. “In 1996 every hurdle was jumped with ease. The parties and the candidates operated as if there were no regulations whatsoever.”

In response to the abuses so prevalent in the '96 campaign Senators John McCain, a Republican from Arizona and Russ Feingold, a Democrat from Wisconsin redoubled their efforts and re-introduced an amended McCain-Feingold Bi-partisan Campaign Finance Reform Bill on September 29, 1997. It called for removing many of the loopholes that had been exploited so openly in the previous election and for an outright ban on soft-money contributions, while it increased the limits on hard-money contributions. It’s authors also softened and removed some of the tougher features. Gone were the proposals that originally attracted so much attention; reduced postal rates and free television time to candidates who would comply with voluntary spending limits. Nonetheless, the bill died by filibuster later in the session, but it was to be revived again in a few years by more CPR (compromise, promise, repeat).

On May 19, 1999 Asa Hutchinson, a Republican member of the House of Representatives offered another version, entitled the Campaign Integrity Act of 1999 (House Resolution 1867), which would have banned soft-money, tightened reporting and disclosure, and raised contribution limits with automatic inflation increase indexing. On August 2 of the same year Bill Thomas, also a Republican member of the House (from California), offered roughly the same thing in his (H.R. 2668) but specifically banned contributions from foreign sources and made

reporting of contributions more stringent. John Doolittle, another Republican member of the House from California, got into the act with his own act, entitled the Citizen Legislature and Political Freedom Act. His version was the first Congressional foreboding of the Citizens United line that was first intimated in Clarence Thomas's opinion in the Colorado Republican Party v. FEC decision a few years earlier.

1999, the year of collective Congressional campaign finance reform hand-wringing, came H.R. 417 the Bipartisan Campaign Finance Reform Act of 1999, authored by Christopher Shays, a Republican from Connecticut, and Martin Meehan a Democrat from Massachusetts. It banned soft-money and closed all the loopholes in a sufficiently compromised enough way to pass with a vote of 252 to 177 on September 14 1999. It then went onto the Senate, was amended and culminated in unsuccessful cloture votes. More CPR (compromises, promises, repeat) would water it down sufficiently to be passable a few years later.

Finally, the Bipartisan Campaign Reform Act of 2002 (BCRA, McCain-Feingold Act) was enacted on March 27, 2002 and became effective on November 6, 2002. (The House version H.R. 2356, aka Shays-Meehan mentioned above, as amended, was the version that became law.) It amended the Federal Election Campaign Act of 1971 to ban soft money from being contributed to or spent by political parties. It banned electioneering communications (advertisements) that name a federal candidate for office within 30 days of a primary or 60 days of a general election. It applied only to federal elections, and as always, left sufficient loopholes to be circumvented. (Discussed below)

Still Mitch McConnell, ever faithful to his true constituent, Money, challenged BCRA immediately (having fought it tooth and nail through the long seven years and many dilutions it took to finally become law) in its expedited path to the Supreme Court in the form of McConnell v. FEC. Contrary to Mitch's wishes that Money would again win over free speech, the Court summarily dispatched the challenge, upholding the BCRA on December 10, 2003 with the majority opinion encapsulated with the Supremes' now immortal refrain, by the duet Sandra Day O'Connor and John Paul Stevens, "Money, like water will always find an outlet".

And, so it would. On February 2, 2005, Senators Susan Collins (R-ME), John McCain (R-AZ) and Russell Feingold (D-WI) introduced the 527 Reform Act to require 527 groups to comply with BCRA. 527 groups, and 501 (c) groups are IRS categories of tax-exempt organizations that essentially are allowed to do lobbying and campaigning. The metamorphosis of the Money caused the 527 and 501(c) groups to pop up like mushrooms after the rain as a result of BCRA. One of the more infamous of these was the Swift Boat Veterans for "Truth" that helped sink John Kerry's bid for the Presidency in 2004.

Senator Collins described this Money metamorphosis well, "No sooner had the ink dried on the McCain-Feingold Act than 527 groups found a way to circumvent federal campaign finance laws, and were able to spend and receive unlimited amounts of campaign dollars. Tens of millions of dollars in unchecked soft money spending was used to support and attack both Democratic and Republican candidates. This is an end run that needs to be stopped in order to ensure fairness and transparency in the election process."

This Act got batted back and forth between both Houses in typical fashion, ending up being called the Lobbying Transparency and Accountability Act of 2006 – 527 Reform Act of 2006

(Senate 2349 (109th))—H.R. 4975 that passed both houses. It included stringent disclosure requirements on all lobbying groups and even a privately funded travel ban for elected officials while banning lobbyists from travelling with elected officials aboard publicly funded craft. It also would have imposed provisions to slow the revolving door, make ethics training for lobbyists mandatory, and stiffen violation penalties. 527 groups would have had to comply with all regulations pertaining political parties or individuals vis a vis elections or selections for public office. But the senate version left open some loopholes that the House found unpalatable, so in typical fashion, it died ignominiously.

Indefatigably, John McCain came back right away in the next session with the 527 Reform Act of 2007 (S.463). After its introduction to the Senate it was referred to the Committee on Rules and Administration where it was treated inhospitably. And died, quietly.

Vermont's campaign finance law, Act 64, had strict limitations on both contributions and expenditures. Neil Randall, a state legislator sued the Vermont Attorney General, William Sorrell, for the usual First Amendment violation arguments on expenditures post *Buckley*, but also that the contribution limits were unconstitutionally low (a new one). Sorrell countered that *Buckley*, interestingly, had not accounted for a new reality; that candidates had to waste so much time fundraising, that it took too much time away from doing the jobs they were elected to do. He also argued that the state had a strong interest in maintaining the low contribution limits to prevent corruption and ensure fair elections. The case was picked up by the Supreme Court.

On June 26, 2006, The Roberts Court announced a 6-3 decision [*Randall v. Sorrell*] that it was “perfectly obvious” that expenditure limits were unconstitutional, and that the contribution limits were unconstitutionally low (for reasons that were a little less perfectly obvious; as it required a 5-part test to show that the Vermont standards were, “disproportionate to the public purposes they were enacted to advance”). In his dissent, Justice Stevens argued that *Buckley* should be overruled as it pertains to expenditure limits. His thoughtful arguments included the notion that money has no effect on the quality of the speech, merely the quantity. And that, “freeing candidates from the fundraising straightjacket” was very compelling because, “Without expenditure limits, fundraising devours the time and attention of political leaders, leaving them too busy to handle their public responsibilities effectively.” On the other side of reason, Justice Thomas went back to the *Citizens* foreshadowing argument he first mumbled in his opinion in *Colorado Republican Party v. FEC* of overruling *Buckley* because limiting contributions was tantamount to limiting speech.

364 days later the Roberts Court took another step away from the BCRA and towards *Citizens* with their 5-4 decision in *FEC v. Wisconsin Right to Life (WRTL)*. As you may remember the BCRA stipulated that corporations could not advertise expressly advocating for or against candidate 60 days prior to a general election. WRTL ran television ads urging people to contact their US Senators not to filibuster judicial nominees who might oppose *Roe v. Wade* during an election season. The FEC argued that the ads were “sham issue ads” and were really intended to affect an election (Russ Feingold was running for reelection to the US Senate). The court ruled that the ad was a legitimate issue ad and “...the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than to vote for or against a specific candidate.” John Roberts got all high and mighty in closing his majority opinion, “...when it comes to defining what speech qualifies as the functional equivalent of express advocacy... we give the benefit of the doubt to speech, not censorship...”

Unfortunately, doubt in the system results from benefiting the will of Money (contributors) – the true constituents -- not the needs of the public. David Souter wrote in his dissent:

“A 2002 poll found that 71 per cent of Americans think Members of Congress cast votes based on the views of their big contributors, even when those views differ from the Member’s own beliefs about what is best for the country. Mellman & Wirthlin 267; see also id., at 266 (In public opinion research it is uncommon to have 70 percent or more of the public see an issue the same way. When they do, it indicates unusually strong agreement on that issue”). The same percentage believes that the will of the contributors tempts Members to vote against the majority view of their constituents. Id., at 267. Almost half of all Americans believe that Members often decide how to vote based on what big contributors to their party want, while only a quarter think Members often base their votes on perceptions of what is best for the country or their constituents.”

In other words, Americans see the Money, not the people, as the true constituency of politicians.

In 2008 Presidential candidate, Barack Obama, railed against the way that money influenced politics. But he broke from those principles almost immediately when he realized how much money he and his campaign could raise. As long as money benefitted him he was comfortable to gather as much as he could, famously eschewing the public matching fund system, because his own money operation blew past the qualifying limits early in the campaign. It’s not uncommon for politicians to complain bitterly about the “fundraising straightjacket” as Justice Stevens put it, and even work diligently for campaign finance “reform” but declare without a touch of irony, or note of self-awareness of the hypocrisy it reveals, “of course, I’m not going to unilaterally disarm” is the common refrain. Russ Feingold, the former campaign finance reform warrior, raised over 25 million dollars for his bid to return to the US Senate in 2016, topping all Senate races, according to OpenSecrets.org, a campaign money watchdog group.

In late March of 2007, Fair Elections Now Act of 2007 was introduced. It is a scheme that would require candidates who would opt into the voluntary program, to collect contributions capped at \$100 from a minimum of in-state donors to prove their viability as a candidate. The candidate would then receive a 4-to-1 match (which would vary state to state) from the federal government. The candidate would still be able to raise money, but only in amounts limited to \$100 per individual donor. A donor could only contribute up to \$300 per candidate -- \$100 for “viability”, \$100 for the primary, and \$100 for the general election. The scheme was introduced in both Houses by a pair bi-partisans. Senator Richard Durbin (D, Illinois) was one of the original sponsors and he is still at it in 2017, much in the same way the indefatigable John McCain stuck with his baby the BCRA. S.1640 (115th): Fair Elections Now Act of 2017 was introduced to the Senate on July 26, 2017. The scheme is still basically the same as when it was first introduced. While the intent is noble -- to reduce the corrupting influence of private financing of public elections – it falls way short. It would only apply to the financing of Senate elections. It would superimpose a very complicated lattice-work of voluntary limits and requirements on top of a hopelessly corrupt system of private financing to attain some public financing. Too complicated, for too few, for too little gain.

Enter the Disclose Act of 2010. So enamored of their clever acronym, Democracy is Strengthened by Casting Light On Spending in Elections, were its original sponsors that we are

now up to a 2017 version of Disclose. Of course, the cleverness of the acronym has not translated into its passage, but that might have more to do with the fact that even if it were enacted into law it would do very little to lessen the impact of Money.

Perhaps you remember at the very beginning of this chapter we discussed the Publicity Act. It was the brainchild of the brilliant Elihu Root and devised to expose the big money backers of the early 20th century corrupt politicians. Root figured since the Tillman Act had done nothing to stop the flow of money, his plan would. It was very similar to the inspiration for the Disclose Act. The infamous Citizens United Supreme Court decision did indeed increase the flow of what seemed to be a flood of campaign cash into the system. So, like the Publicity Act the Disclose Act was thought to be the answer. The Publicity Act had no effect whatsoever on Money. The public already knew that the likes of J.P. Morgan, John D. Rockefeller and Andrew Carnegie bankrolled the politicians they needed.

So maybe Chuck Schumer and Sheldon Whitehouse in the Senate and Chris Van Hollen and David Cicilline in the House and the hundreds of co-sponsors in both Houses had never heard of the Publicity Act or how effective it wasn't? Study after study (like the one cited above in David Souter's dissenting opinion in *FEC v. Wisconsin Right to Life*) show the American public knows fully well who the big bats are and what the score is. We don't need cutesy acronyms. What we need is a way to fix this miserably rigged game. Big Government for Big Money by Too Big Parties doesn't work for the people. No money elections plus no party politics equals real democracy.

This brings us back to *Citizens United v. FEC*. A thin majority of Supreme Court Justices and a small minority of Americans think that an unlimited amount of money spent by any domestic organization (e.g. corporation, labor union, PAC, Super PAC, 527 or 501(c) group) to support or oppose a candidate in a public election should be considered speech protected by the first amendment. Any number of polls show that a vast majority of Americans disagree. An ABC-Washington Post poll conducted February 4-8 2010 showed that 80% (including 76% of the Republicans) opposed the *Citizens United* ruling. Few have expressed this sentiment held by most Americans better than Supreme Court Justice John Paul Stevens in the conclusion of his dissenting opinion:

“At bottom, the Court's opinion is thus a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self-government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.”

As we discussed in our chapter *Supreme Problem* the outrage and frustration with the 5-member majority of the Roberts Court has had two very different effects on Americans. One is very negative, damaging and potentially dangerous. The other, which we of course hope prevails, is that it has galvanized a strong, very positive and purposeful response that could well lead to a long overdue change in the way we govern. The choice of which path we take is in our hands entirely. We will examine these paths to close this section. First, we need to go back to the Roberts Court and its follow-up to *Citizens* in which it doubles-down on its foolish blunder to make it absolutely clear as to which course we need to take.

The first application of *Citizens* in a court case came less than a month later when a 527 group known as SpeechNOW.org challenged a ruling it had handed to it by the FEC in the United States District Court for the District of Columbia. The decision of the D.C. District Court in *SpeechNOW v. FEC* citing *Citizens* made contribution limits to 527 groups like SpeechNOW.org unconstitutional since expenditures by those same groups could be unlimited as per *Citizens*. This paved the way for the advent of Super PACS and gave wealthy individuals the green light to spend as much as they wanted in the political arena so long as they weren't contributing directly to candidates or "coordinating directly" with them. We are supposed to believe this nonsense?

Next, in chronological order, we have *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett* decided by the Roberts Court on June 27, 2011. This was a long and involved case concerning an Arizona state law granting public funding to candidates for state office. Like the other public funding schemes we have discussed, it seems they are inherently complicated because they attempt to engage with the private funding system (which you have by now hopefully ascertained is inherently corrupt) in an ungainly hybrid that really does little to accomplish their intended purpose – which is to level the playing field – making Money less than the corrupting influence it is. Which is why we eschew public financing schemes layered on top of the existing mess.

So rather than trying to pry apart this case for you to understand, suffice it to say the unfortunate impact we see is that the Roberts Five poked into state law brandishing their *Citizens* cudgel to overrule a state law. A longstanding Montana State law was their next bullying decision, *American Tradition Partnership, Inc. v. Bullock* on June 25, 2012. In the Roberts Five dismissive per curiam opinion, "The question presented in this case is whether the holding of *Citizens United* applies to Montana state law. There can be no serious doubt that it does...The judgement of the Supreme Court of Montana is reversed." There you have it – States' rights be damned – Federalists get lost.

Finally, we have *McCutcheon v. FEC*, decided April 2, 2014 (one day earlier would have been more appropriate). Shaun McCutcheon, an Alabama resident felt his First Amendment rights were being trampled because the aggregate limits he was allowed to donate to the Republican National Committee, other Republican Committees and various individual candidates over a two-year period as set forth in the BCRA were just too low.

Shaun, thanks to the Roberts Five, now has no aggregate limits to contend with at all. The only limits that remain are the pesky limits to individual candidates. Of course, he can get around those easily enough by giving to Super PACs (which, of course, don't coordinate with the individual candidates). Still better would be Justice Thomas's notion set forth in the dissenting part of his concurring opinion, to just do away with the whole charade of any contribution limits at all by overruling *Buckley*. Will the Roberts Five stay alive long enough to see the Thomas's vision come to fruition?

We have struggled with the issue of how to deal with the corrupting influence of money in our elections since the Tillman Act in 1907. No legislation has been effective. The Supreme Court has made a bad situation worse. We hope it is obvious to you, as it is to us, that now a Constitutional Amendment is imperative. Hoping that somehow politicians will provide an

answer is just not going to happen, they are beholden to a system that prevents them from acting to change it. The Too Big Party system is just as much a part of the problem as Money. As we have said, we have allowed Big government for Big Money by Too Big Parties. We the people, need to take responsibility for governing ourselves in a way we can be proud of. This can only happen by using the tools our Constitution provides, and amending our Constitution. It is the only way.

Now, let's take a look at the bona fide movement afoot in America to amend our Constitution to end the corrupt campaign finance system we suffer under by examining all the known proposed amendments, other than ours', that have been put forth.

Move to Amend started up right after the *Citizens* decision was made. They have a website: MoveToAmend.org and have a nationwide network of affiliate groups. They are funded and ask for donations. Here is their proposed amendment:

Section 1. [Artificial Entities Such as Corporations Do Not Have Constitutional Rights]

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by the People, through Federal, State, or local law.

The privileges of artificial entities shall be determined by the People, through Federal, State or local law and shall not be construed to be inherent or inalienable.

Section 2. [Money is Not Free Speech]

Federal, State, and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, to ensure that all citizens, regardless of their economic status, have access to the political process, and that no person gains, as a result of their money, substantially more access or ability to influence in any way the election of any candidate for public office or any ballot measure.

Federal, State, and local government shall require that any permissible contributions and expenditures be publicly disclosed.

The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.

It's great to have an organization whose efforts are so focused on what we also believe must be the first step towards healthy self-governing. By returning to our founding document to install a missing piece we restore our faith in ourselves.

And now for the inevitable, "but". As outrageous and maddening as the Roberts Five *Citizens* decision was, we feel the "corporate personhood" gambit is a bit of a red herring. It has taken our attention off of our real problem which is the corrupting influence of private expenditures to finance our public election campaigns. The implication that corporations, unions et al. should be given free speech rights protected by the first amendment is only an issue because *Citizens* allows groups (or artificial entities as this amendment proposal chooses to call them) to spend money on political campaigns just as "natural" persons do – which everybody (other than the Roberts Five, Mitch McConnell, Shaun of the living dead McCutcheon and The Koch Bros.) knows is wrong anyhow. The real issue is Money.

We need fair, free and open public forums for elections and legislation. Political discourse must be free. Not paid for only by those who can afford it. Let's live up to the promise of our founding document and use our First Amendment for its intended purpose.

Next, do we really want to go to the great length of amending our Constitution merely to go back to the bad old days pre-Citizens? If this whole chapter has done anything, it has illustrated how futile it has been to rely on politicians who rely on private money to fund their campaigns to regulate that money. Talk about conflicts of interests. We must amend our Constitution, no disagreement there. But let's make damn sure we get what we need, which is to get money out of politics, completely, once and for all.

If we can do that, then the issue becomes: what means do we employ to inform the electorate of their choices in their elections. The worst way to do that is the way we just allowed to occur over time, without a plan or any thought. As we have shown, Money and the Parties filled the void left by the omission in our Constitution. But we can't fault the Framers. What did anybody know about running elections, much less informing the electorate, 230 years ago? So now it's our turn to take the responsibility to strive for "a more perfect union", and insert that missing piece, with our 28th amendment.

Another ally in our cause is Free Speech for People.org. Their stated mission is, "We catalyze and help lead the movement to amend the U.S. Constitution to overturn the Supreme Court's rulings in *Citizen's United v. FEC* and *Buckley v. Valeo*, and the doctrines underlying those rulings". Like Move to Amend they are funded and seek donations (rather too assiduously for our taste – more on this later). They support a pair of constitutional amendment proposals that are identical to bills that have been before both Houses of Congress for some time. Interestingly, just one of the co-sponsors (of the 204 in both Houses) was a Republican, the late Walter B. Jones of North Carolina. (Please refer to our *Party Problem* chapter for a discussion of this phenomenon.)

I. Democracy for All Amendment

Section 1. To advance democratic self-government and political equality, and to protect the integrity of government and the electoral process, Congress and the States may regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections.

Section 2. Congress and the States shall have power to implement and enforce this article by appropriate legislation, and may distinguish between natural persons and corporations or other artificial entities created by law, including prohibiting such entities from spending money to influence elections.

Section 3. Nothing in this article shall be construed to grant Congress or the States the power to abridge freedom of the press.

II. People's Rights Amendment

Section 1. We the people who ordain and establish this Constitution intend the rights protected by this Constitution to be the rights of a natural person.

Section 2. The words people, person or citizens used in this Constitution do not include corporations, limited liability companies or other corporate entities established by the laws of any State, the United States, or any foreign state, and such corporate entities are subject to such regulations as the people through their elected State and Federal representatives, deem reasonable and are otherwise consistent with the powers of Congress and the States under this Constitution.

Section 3. Nothing contained herein shall be construed to limit the people's rights of freedom of speech, freedom of the press, free exercise of religion, freedom of association and all such other rights of the people which are unalienable.

Comments on (I. The Democracy for All Amendment): Earlier in this chapter we observed that in numerous attempts to regulate campaign spending there were clever loopholes sewn right into the fabric of the acts. We might be wrong about this, but since there has been a historical propensity for intentionally loophole laden legislation that it was difficult to ignore the word, "reasonable" as in, "...Congress and the States may regulate and set "reasonable" limits on the raising and spending of money...". Whether this apparent loophole was intentional or not, the main problem is that it would do nothing to end the scourge of money ruining our democracy. Who would decide what is reasonable? Or, for that matter, what does reasonable even mean in this context?

Then, we have a real problem with the red herring in the room adversely affecting the effort. The authors are so concerned with the implied "corporate personhood" of *Citizens* that they have

painted themselves into a corner in Section 2. Section 3. is a clumsy attempt to get out of the corner because they realized that “such entities” referred to in (Section 2.) would include all manner of publications, but the authors’ footsteps are left behind as they left their amendment.

Comments on (II. People’s Rights Amendment): This was an earlier version, originally sponsored in the House by James McGovern [D-MA] on 1/22/2013 it currently has 41 cosponsors in both Houses, all Democrats except for the late Walter Jones of North Carolina, who dared to stand alone from all his Republican cohorts. What is curious about this proposed amendment is that there is no attempt at all to deal with issue number one -- the Money!?! The wording of its [Section 2.] is even worse than The Democracy for All proposal, as is its attempt to make up for it in the final section. Don’t these folks think before they write --- especially something as momentous as a constitutional amendment?

The final “sister act” we will examine is the proposed, “American Anti-Corruption Act” AACA. It is being promoted by an organization called Represent.US. They are funded and they also request donations at every turn. Their strategy is to work at the local and state level to build the momentum to finally force Congressional legislation. In addition, they identify problems we outline as secondary issues that are addressed in our *While We’re at It* chapter, namely: ending gerrymandering, closing the revolving door, (elected public office to paid lobbyist) automatic voter registration and vote by mail. We identify and discuss several more fixes in our chapter, *While We Are at It* which are not included in their proposed act. Where we feel they miss the boat entirely is that the endless fight over Money would not end and, maybe even intensify under their regime.

Lastly, a note on politics by donation, or clicktivism. In our study of all the various groups and organizations that identify the serious harms our corrupt system of campaign finance inflicts, we see an alarming and disheartening irony that can be summed up this way, “I’ll just donate my way to a clear conscience and then I won’t actually have to do anything”. And that goes for the organizations too. There would have been many groups we would have loved to share with you, but we couldn’t even identify what they were offering in terms of real policy. The one thing we could identify, only too painfully plainly was, DONATE. End the corruption of “big money” buying politicians! Just click on > DONATE. The implication is it’s just “big money” that is the problem. Your small donation fights “big money” corruption – without any indication of *how* that might be achieved. Doesn’t it appear hypocritical, or at least sadly ironic to ask for money to fight Money?

CHAPTER 6

GLOBAL PROBLEM

Money and Party Politics – A Survey of Nations

It's universally understood that funding *public* elections with *private* money is an intrinsically and manifestly bad arrangement. It has come to distort the intended and avowed democratic self-governing aspirations we all share. Every nation that identifies itself as some sort of constitutional republic continually struggles through legislative and legal means to deal with its unmet, or at best, poorly met, need to inform its voting public. That is because voter information, this basic and fundamental need for a republic to function, was not considered adequately in the formation of any constitution anywhere on our planet. It is this original error of omission all nations are trying to overcome, because, to varying degrees, private money i.e. corporate, business and capital interests (Money), filled the void and assumed de facto sponsorship of election campaigns, making those elected, in effect, indebted. It is a conflict of interest manufacturing machine at best or, at worst, as the citizens of most countries so painfully know -- it is the mother of corruption.

In parliamentary governments, parties are constitutionally authorized middle-men; operating the legislative levers for Money that sponsors them. The USA stands out, because there is no such constitutional authority granted the parties, but still they have utter control over legislation.

Most nations have attempted to correct their original constitutional error of omission through some form of public funding for campaigns, and regulation of campaign contributions and spending but, as our survey shows, these after the fact legislative fixes have proven inadequate save for a few moderate or partial successes. In fact, many of these attempts are schemes to enrich or give unfair advantage to one faction (or party) over a rival, clothed as campaign finance "reform" just as we have shown is the case in the US.

The following survey and observations are drawn largely from Library of Congress (LOC), Law Library Research and Reports, Legal Topics file; USAID Reports; and the Brennan Center for Justice. For basic background information as well as numerous in-depth articles, and very well-designed tools, the International Institute for Democracy and Electoral Assistance (International IDEA) based in Stockholm, proved itself invaluable in this effort. Other sources are attributed in the footnotes. This is a snapshot. Since it was written, the crazy craven corruption stories in certain countries have continued to careen. I have purposefully not updated them because how the plots have played out in comparison and contrast to what I had written earlier is very interesting in itself. This chapter is an overview in a condensed, cliff-note type of presentation. It was intended to underscore the fact that we are not alone. Same story different places.

AUSTRALIA; 24.5 million people

“Legislation has been introduced in Parliament to reform election funding; however, such legislation has not passed. There is no limit on the amount of political advertising”, [but, blocks of broadcasters’ time to sell such advertising, is limited], in Australia “to date”, LOC Report.⁴⁵ That meager law itself was only an attempt to make even distribution among broadcasters. Ostensibly so one channel wouldn’t hog out at the trough. It’s fair bet, that legislation, regulatory advantages, tax advantages, trade deals, as in every country, are bought with campaign cash, Money, in Australia as well. Its parliament is 29% women; 50th among nations around the world.⁴⁶

ARGENTINA; 45 million people

“While the Argentine political-party finance system provides for both public and private funding, in reality, the amount of public funding is small, in absolute terms as compared to the private contributions.” This is from USAID most current assessment of campaign finance reform in Argentina. Its parliament comprises 39% women; ranking it 16th of 193 nations.

BRAZIL; 220 million people

“Brazil’s Congress has approved a controversial new bill that would introduce public campaign financing in the country after corporate donations were banned in the wake of a vast corruption scandal.” Wall Street Journal. Oct. 5, ’17. Oct. 4, ’17, Reuters, “More than 100 lawmakers are targeted by the ‘Car Wash’ (real name –talk about money laundering, are you kidding me?). But the real culprits are the Odebrechts. A family owned mega-business founded by the patriarch Norberto Odebrecht⁴⁷, son of German immigrants, who interestingly founded what would become a primarily mineral extraction and related services contractor goliath, in 1944, at a time when many Germans with Nazi-party affiliations were arriving in South America with cash to invest. The corruption investigation has led to prosecutions, including that of Norberto’s grandson Marcello, who is now in jail for a long time, for a relatively small amount as compared to the total uncovered in a network of bribes from private companies (predominantly of Odebrecht origin) seeking to win contracts and influence policies. This far reaching investigation has implicated just about everyone in higher office, and many in regional (state) and even local officeholders throughout Latin America.

⁴⁵ Lisa J. White, Foreign Law Specialist, LOC report, April 2009 (last updated 7/1/2015)

⁴⁶ *Women in national parliaments*: situation as of 1/12/2017, published by the Inter-Parliamentary Union. Please note: all of nations surveyed herein are rated as to the members in the *lower* house. Since many nations have only a single house, for the sake of easy comparison, only the lower house percentage is mentioned, even for nations with an upper and lower house.

⁴⁷ Odebrecht, like many German names, mean something; often as to the job, profession or trade (calling) of the person (so named). **Ode**: has roughly the same meaning as it does in English. **Brecht**: means broken, shattered, split apart usw.

The Brazilian Supreme Court Judge presiding over the investigation died when his plane crashed into the South Atlantic, for reasons as yet unknown. Last straw? The Supreme Court (maybe threatened? Intimidated?) finally weighed in banning corporate donations to election campaigns outright, in an 8-3 vote on Sept. 12, '17.

As my mother often said, “Yes! Topple the tyrant. But if you don’t have a plan for his replacement, history has shown, you’ll most likely end up with more of the same, just with a different name, or something even worse.”⁴⁸

The Supreme Court’s decision, left the same corrupt bunch of bribe-takers in Parliament, who are still under investigation, to devise the scheme to dole out public money back to the parties. (No, you can’t make this up.) Brazilian jiu-jitsu, party-style has ensued, of course. It’s Campaign Cash Carnival time. (Sorry, couldn’t resist.) We will refrain making the Brazilian bigger than life and, *crooked*, condemnation, because when it comes down to arithmetic, Money-Brazilian-style is but a trifle compared to Money-US-style. The Money spent by one Koch Bro, is more than all the Moqueca (famous Brazilian fish stew) cooked up in the corrupt cauldron called Brazilian politics.

The very popular former president, “Lula”, who was actively running for re-election in 2018, is now also in jail, serving a 12-year sentence, for his part in the larger Odebrecht debacle. The elections had to go on without him. His error apparent, Fernando Haddad, was a stand in not for Lula, but for Money/Car Wash. It was the campaign cash from the Odebrecht Octopus that, even though Haddad had no personal connection to, nonetheless sealed his defeat by association with a crooked party in the presidential election. Because his party was so tainted by corruption, Haddad was destined to be smacked down by Jair Bolsonaro from the autocratic right, who promised to crush all crime and corruption in an uber-Trumpian kind of way.

Brazil and the US are similar in many ways: big, sprawling, given to extreme behavior for good and bad, culturally rich and diverse, yet politically and socially adolescent -- rough around the edges, lots of gun violence with dangerous disparities in wealth. But, perhaps most tellingly because corruption is so blatant and pervasive in the conduct of political campaigns, the false autocratic promise to end the corruption understandably appeals to large sections of the electorate. In this way we can see the direct causal line from campaign cash spawned corruption with resulting revulsion and rejection by the public and votes for autocratic promises. In the US the promise to drain the swamp got drowned out by even more blatant corruption from cabinet members indulging in personal extravagances at taxpayer’s expense like: a stuffed grizzly, private jet excursions and even deals on (or free) used mattresses?

We’ll see what comes of Bolsonaro. He, his wife, son and his former driver are now trying to explain deposits into his son’s and his former driver’s and his wife’s bank accounts for several hundred thousand dollars, including many for the same amount (2000 reais = 533 dollars) and some (tellingly?) from an ATM inside Rio’s state legislative assembly.⁴⁹

⁴⁸ Witness the US invasion of Iraq and toppling of Saddam Hussein, or the “Arab Spring” -- yes, Mubarak and Gadaffi *are* gone, but has that made life in Egypt or Libya any better?

⁴⁹ Reuters World News, January 18, 2019

Brazil's parliament is only 10.7% women; 155th (out of 193)⁵⁰

PERU; 32 million citizens

Peru has only relatively recently joined in the group of nations aspiring to the values and practices of constitutional democracies. But like its cohorts, it too has failed to provide a constitutionally mandated means of providing for that most basic of needs for a democracy; the means of informing the voting public, thus allowing itself to fall prey to the many malign manifestations caused by private Money funding public elections.

The Brazilian omnipresent Odebrecht octopus entangled all of Peru's top elected leaders and turned them into its dealers with relatively small cash payments, compared to the government contracts that were procured by simply pouring cash into party coffers, like it has throughout the continent. Especially vulnerable are countries like Peru. Plagued by generational poverty, yet rich in minerals, from ancient Incan gold mines that *still* yield a plenty, to copper, to Zinc, and now Lithium. It was a prime target for Odebrecht's modus operandi; obtaining large government contracts by bribing those in the highest elected offices by paying for their political campaigns.

According a report published in The Washington Post on January 23, 2018, authored by the South American Bureau Chief, Anthony Faiola, this has not only brought down the leaders/dealers in Peru, but in most South American countries (that had minerals to exploit, or large civil engineering projects i.e. roads, dams and other large-scale capital projects to skim).

Faiola also reported on the disastrous downstream ripple effects that has effectively turned off the money-flow to all the sub-contractors, who through no fault of their own other than to enter into contract with Odebrecht and affiliated tentacles. Now they are left by the scores to shut down operations and are often forced into bankruptcies. The workers and their families are the ultimate victims, being laid-off by the thousands across the continent. See what private Money funding public elections buys you?

What makes this so sad is that, is that many of these same countries have been making strides to improve their democracies. The Peruvian Parliament, for example had been discussing such constitutional issues for electoral reform as, equal gender representation in its legislative bodies, and even ways to provide public voter information. Most tellingly, there had been quite a bit of discussion as to how to make the parties' internal operation more fair, open and democratic.⁵¹ This phenomenon, gang-like inside the party (intra-party) politics often carries on without scrutiny or oversight -- and abuses are endemic -- not just in South America, but, as we will show in this survey of nations, in varying degrees everywhere. Peru has a single house parliament whose seats are held by 27.7% women. 57th in the world.

BOLIVIA; 11 million individuals

⁵⁰ *Id*

⁵¹ EU Electoral Follow-Up Mission to Peru, Final Report, EU Deputy, Renate Weber, October 19, 2017, Lima

Evo Morales, very charismatic, with that tell-tale bad haircut (like Donald Trump, Kim Jong Un, Adolph Hitler, Fidel Castro (beard), Boris Johnson, Geert Wilders, Rod Blagoievich, and Al Sharpton, to name a few) and backed by *his* party, in this case, MAS, assumed office promising great reform in 2006. Like others of his ilk, the late Hugo Chavez and present Nicolas Maduro, Presidents and *their* party PSUV; or Lula, former president of Brazil (and imprisoned leader of *his* party PT), Morales and *his* party, MAS, ended up assuming undue power. The leaders become “caudillos” (in the stereotypical Latin American “Generalissimo” mode) even as they espouse progressive, inclusive and socialist values. The parties, for their part, make up their own rules, and acquire Money from undisclosed private sources, and even foreign sources. They become corrupt, their laudable goals that brought them to power notwithstanding. “Preserving the party and its leader in power has become a central, if not the paramount, MAS goal.”⁵² But, there is hope: Bolivia is 2nd in the world, with 53% of the parliament’s seats held by women.

ECUADOR; 16.8 million personas

Rafael Correa and *his* Alianza Pais party came into the presidency in 2006, like his neighbor president Morales, as part of the so-called “pink-tide”, an avowedly socialist, environmentalist and progressive movement. And like Morales, he helped forge a new constitution. The Correa led new constitution, adopted in 2008, had some very innovative plans laid out, to encourage citizen participation in governing.

Unfortunately omitted, as always, was a provision for voter information. So, party finances and financing, also as always, get corrupted -- because they have no rules. Foreign interests (no big surprise) continued to receive contracts to exploit natural resources. Women comprise 38% of the parliament (20th world-wide).

MEXICO; 130 million souls

Articles published by the Brennan Center and the Council on Foreign Relations report that Mexico may have finally given itself a fairer system with laws adopted in 2007 which put into place a system of public financing, with public payments to parties, free media time and both contribution and spending limits. It also banned corporate and third-party donations. Candidates receive no funding directly, under this legislation. All the money is funneled through the parties. The taxpayer money that goes to the parties is based on the percentage of total votes cast in the previous election.

But, there is virtually no enforcement of the election laws. It has been estimated that up to 4 times the amount of legal public funding is circumvented by various secret campaign cash sources (from big corporate scams to petty local government bribers). Nobody really knows

⁵² Linda Farthing, *Evo’s Bolivia: The Limits of Change*, The Next Systems Project, an initiative of The Democracy Collaborative, Washington D.C. August 7, 2017

because there are no effective ways in place for auditing and reporting. This gets back to our own historical lessons in the US (please see our chapter, *Reform Problem*). Not only do the laws have to be very proscriptive, they have to have enforcement and prison time to be effective.

Mexico's newly elected President Lopez Obrador (AMLO), like Ethiopia's Aiby Ahmed, seems poised to put the house in order to serve the people's needs. Is such change possible without a constitutional mandate?

Mexico rates 7th in the world, with 43% of the women on board in the Parliament. Bravo. (How can it not be constitutionally mandated, as a matter of a basic human right, in every nation on earth that dares to call itself a representative constitutional democracy, not to provide for gender equality in elected office, is not only beyond comprehension, but beyond reason as well.)

USA; 324 million

It has been said that the infamous *Citizens* decision was a round fired into a dead horse. There was no meaningful control of campaign spending since *Buckley*. McCain/Feingold was the last of any attempt to control Money. Of its final dilution signed into law John McCain lamented, it would be circumvented, not to be prevented⁵³... Money won. So, the Roberts' Five Headless Horsemen needlessly delivered a late hit, a flagrant foul, an in-your-face farce of Justice. But that wasn't enough. The Robert's Five rode by again, and again, firing redundant rounds with each ruling i.e. reversing Montana's Supreme Court Decision to continue to enforce the state's century old law banning corporate donations to election campaigns in June of 2012⁵⁴; and with *McCutcheon v. Fec*; which allows bag men to carry the maximum allowable donation to one campaign, to as many individual campaigns as Shawn McCutcheon (or anyone else) wants to.⁵⁵

So, that makes US campaign finance laws (what remains of them) essentially pointless. This has allowed the Money coup of government to have been successful. It has yielded the intended results, among many others, to accrue to the "donors", i.e. The Koch⁵⁶ cabal, in the form of the Tax Cuts and Jobs Act, for example, in substantially reduced taxes. Please refer to Chapter 2: *Money Problem*, where we discuss the Koch methodology. The Kochs and the Odebrechts have risen by deploying very similar MOs.⁵⁷

The US is represented by 19.5% women in Congress. We are 102nd among nations; Saudi Arabia ranks 100th.

CANADA; 37 million inhabitants

⁵³ Paraphrase of his, "Before the ink dries", and less rhyming, prediction.

⁵⁴ 567 U.S.____(2012)

⁵⁵ 572 U.S.____2014 April 2, 2014 (off by 24 hours; it was an April Fool's day joke of a ruling)

⁵⁶ Koch, auf Deutsch. Cook in English.

⁵⁷ In her bestselling book *Dark Money*, Jane Meyer describes the rise of Fred Koch (Charles' and David's father), from his start as an oil refining engineer /inventor to entrepreneur who discovered, like the Odebrecht patriarch, Norberto, the real way to Money was through national contracts including Soviet (Stalin) and German (Hitler). Money justifies the ways and means.

Furthest north in the Americas, (the polar opposite?) and something, by all measures, quite better: Au Canada. In the March 2016, LOC report by the Foreign Law Specialist, Tariq Ahmad, outlines the Canada Elections Act. The Canadian Parliament has attempted to mitigate the corrupting influences of campaign money on the Canadian national and provincial legislative bodies by, limiting campaign contributions and spending along with (like the Australians); limiting media air time for purchase, while allocating free air time to the parties; providing public funding via generous reimbursements for campaign expenditures to the parties; and tax credits for private campaign donations. The Canada Elections Act allows only citizens and permanent residents to make political contributions. Corporations and trade unions may still make independent expenditures but, within limits. Sounds quite exemplary. And, indeed, it is the best system in the Americas, both on paper and in practice (violations are few) by a long slap-shot.

Unfortunately, for all of the public support, the pump still has to be primed with private money. The more money donated, or actually spent, the more money received from taxpayers. On top of that, the public funding doled out to a given party is based on the number of votes that party received in the previous election. Thus, Money and parties in power are perpetuated with funding from taxpayers. This is a pattern we will see repeatedly, we call it: Institutionalized Establishment Perpetuation (IEP) via public funding. There are also some sizable loopholes along with the cheese curds baked right into Canada's political poutine⁵⁸. The Parliament comprises only 27% women. 61st on Earth.

Africa In Four Regions: Southern African Countries, West Africa, East Africa and North Africa

There are many similarities with respect to Money buying political influence through private campaign expenditures in all of the Sub-Saharan nations. Please consider some historical perspective.

First and foremost, is that most all of these nations had almost simultaneously shed the yoke of colonial exploitation in the early 1960s, when it finally crumbled under the oppressive weight of its own sinister origin; starting with slavery, then conquest and colonization (enslavement without transportation costs). Then came the ensuing civil unrest as old tribal rivalries, which the European Colonists played to the utmost with their cruel "divide and conquer" ways, that are still being played out in many countries throughout Sub-Saharan Africa.

A very typical example is Nigeria, currently the world's 7th most populous nation with about 199 million inhabitants. The British had long been leaders in international slave trade. Embarking from river mouths along what is now the Nigerian coast to sell their human cargo to their other colonies, but primarily in the Americas. Though the British Parliament outlawed slave trading

⁵⁸ Poutine is the Canadian "national hot-dish" of baked ingredients: leftover meat gravy, french fries and cheese curds in a casserole hotdish.

with the Slave Trade Act of 1807, it seemed to coincide with the rise of Britain's other exploitive trade with indigenous peoples throughout Africa, including the area that is now Nigeria. This was inevitably followed with Britain's eventual military conquest over the various indigenous peoples of the area, starting with Lagos in 1861, just as the evil institution of slavery, which started it all, was coming to its bloody end across the Atlantic Ocean in the United States. It wasn't until 1914 that Britain had completed its bloody takeover of all the indigenous lands of what is now known as Nigeria. Just 46 years later, on October 1, 1960, they gave up, leaving their ravaged, pillaged, and plundered mess behind.

Without the overlord oppressor, whose tactics had exploited old enmities, now supposedly "giving" a constitutional parliamentary model for self-governance to its conquered land as a parting token. The old victims reacted predictably and fought one another for control over a "nation" whose artificial boundaries were imposed by the conqueror. With the conqueror's Trojan Horse, a constitutional parliamentary democracy, sans, quite predictably, any means of informing the electorate, thus making Money the means. In what was the final goring (as if it were needed) the British, in order to protect the Money they sought to expropriate via oil extraction from beneath the floor of the Gulf of Benin, felt it necessary to prevent the Igbo people from establishing their own nation, Biafra, on the Gulf's shore, and, Britain's navy blockaded Port Harcourt, which literally starved several millions of people to death (mostly children, of course).

With Nigerians divided, and fighting each other for the next several decades, it allowed the Brits' and friends' Money to plunder the Gulf's oil by paying Nigeria's top dealers/leaders for contracts to extract.

Dick Cheney was charged on December 7, 2010 in the Nigerian Federal Court for bribery. Payments of \$250 million were made by the oil & etc. giant, Halliburton, for whom Cheney had been serving as CEO at the time of the criminal action, in a plea deal with officials of the Nigerian Attorney General to get Cheney off of his warrant. The investigation which led to Cheney's arrest warrant, showed that one of Halliburton's subsidiaries, KBR, doled out \$180 million to secure a \$6 billion contract to build a giant liquefied natural gas plant outside Port Harcourt.⁵⁹

This exemplifies why elected leaders/dealers are so vulnerable; they are really cheap. On top of that, when the Dick Cheneys of the world get nabbed, they get off by paying cheap fines. Halliburton only had to pay a total of \$430 million to get a \$6 billion deal. That's only a 7.2% fee -- *including getting caught and paying for Cheney's way out of jail*. In 2009, both of the partner companies Halliburton and KBR, that Cheney ran (before he chose himself to be W's VP running mate), pleaded guilty in US Court for violating the Foreign Corrupt Practices Act and paid a \$579 million fine to the US Treasury as well, according to an ABC News report.⁶⁰ So ultimately, it was Cheney's \$1 billion blunder for no jail time against earnings from the \$6 billion project. Then there was the unreported bribe amount itself. Apparently an undisclosed amount because, it was part of the plea bargain. But it's safe to say the amount was miniscule compared.

⁵⁹ *Nigeria Drops Dick Cheney Bribery Charges* December 17, 2010 BBC News, Africa Bureau.

⁶⁰ Dana Hughes, *Nigeria Drops Bribery Charges Against Former Vice-President Dick Cheney*, ABC News, Dec. 20, 2010, Nairobi.

The people we elect need money run to for office, nobody denies this. That makes them vulnerable, whether in Nigeria, or the US.

Whereas, Nigeria has been trying diligently to rid itself of corruption, in the US, with the Robert's Five still alive, with just easily circumvented contribution limits for regulation and spending limits to say there are regulations. The Money Coup was successful. No effective regulation. Money Rules.

The same ABC report cites examples of the big-pharma (Pfizer) trying to pressure Nigeria's Attorney General, Michael Aondoakaa through intimidation (since he refused any bribe outright) to drop charges of corruption stemming from an investigation that uncovered Pfizer's attempt to buy its way out of testing a meningitis drug on Nigerian children without parental consent.

Nigerian investigations led by Farida Mzamber Waziri, executive chairman of Nigeria's Economic Financial Crimes Commission have exposed many more of the corrupt practices of foreign multi-national corporations duping Nigeria's elected officials. In one case, Shell Oil has admitted to infiltrating every level of Nigerian government to gain its own inside information. It has also channeled information it gleaned to US intelligence about activities in the explosive oil-rich Niger delta region (for a short time known as Biafra –in what was to be a return to Igbo Tribal hegemony).

“Big firms doing business in Nigeria, coming to Nigeria with the mindset that this is a corrupt country, everybody is so corrupt, anything goes. They won't follow the rules and procedures. They just go to corrupt [government] individuals...offering bribes and then doing a shoddy job or not doing it at all. This is what we are not going to accept anymore,” said Chairman Waziri.⁶¹

And, so it goes, for most Sub-Saharan nations. It takes a lot of money to run for elected office. Just as we have shown in South America and, as everywhere else, it is the mother of corruption. If it isn't Odebrecht, then it's Halliburton, Pfizer, Shell Oil or Koch Industries; it's all the same game.

SOUTHERN AFRICA COUNTRIES

South Africa; 56 million inhabitants

South Africa is not alone in providing public funding for political parties. Its Constitution authorizes equitable and proportional public funding in both national and provincial levels. Supporting legislation in the late 1990s established the Independent Electoral Commission (IEC)

⁶¹ Id.

giving it the authority to set limits for the amount of money the parties shall receive and requirements for the disclosure of expenditures made by the parties with the funds received.⁶²

Unfortunately, despite the clear need for them, there are no corollary regulations of private funding of political parties. This of course creates the usual corruption incubator. Eventually the abuses burble out of the incubator. Without constraints, the parties can grow to dwarf the government itself. Witness the African National Congress Party (ANC). And, because the inner workings of the parties are also allowed to run however they want, they get hideous too. The leaders of the parties are the prime targets for what amount to bribes.

Jacob Zuma may have been a courageous young anti-apartheid revolutionary. He suffered 10 years in jail and another eternity in exile. But once he became a politician and eventually became president of South Africa, Zuma just couldn't resist all the temptations, and it went to his head (as we know all too well, is the case with many a politician). He had been accused of receiving 783 payments, mostly for improvements to his rural estate, through a former financial adviser who was convicted of graft related to an arms deal that eventually forced Zuma to resign in February, 2018. South Africa ranks 10th among nations with women comprising 42.7% of its lower house of parliament.

Namibia, 2.6 million people

Like South Africa, Namibia has a system for public funding of political parties. In Namibia's case, only the parties with seats in the National Assembly (its Parliament) receive the public funding.⁶³ Unlike South Africa, Namibia has now put into place a regulatory system in which the private sources and amounts all parties receive must be identified. Unfortunately, Namibia, like all nations in the Southern African region, lack enforcement mechanisms to ensure the effectiveness of its regulations.⁶⁴ Despite its small population relative to other nations in the region, through its founding membership and continued participation in International IDEA sponsored activities, Namibia has become a regional leader in dealing with the challenges brought about by the increasing role of private funding of public election campaigns. Namibia's National Assembly comprises 46.2% women. 6th in the world (just ahead of Sweden).

Picture this: Namibia decides it has had enough; Money and democracy are antithetical. Money makes mockery of democracy. Money is the Mother of corruption!

And, the Parties are the middlemen, each operating under its own set of ad hoc rules. Some say; gang like. Big Government (almost 1/3 of Nigeria's national public expenditure is for the salaries of *elected* officials, for instance) for Big Money (mostly from off-shore) by the Big Parties (all aspiring ANC replicants). Inevitable? Instead, please, imagine this if you will:

⁶² Policy Brief: *Guiding Principles for Political Party Funding Reform in South Africa*, published by My Vote Counts, Cape Town, October 2016 [in collaboration with International Institute for Democracy and Electoral Assistance (IDEA), Stockholm; Global Integrity, Washington D.C.; Electoral Institute for Sustainable Democracy in Africa (EISA), Johannesburg]

⁶³ Note: The Namibian *Electoral Act No. 5 of 2014* stipulates that the amount dispersed is proportionally allotted by the number of seats held by a party. More Institutionalized Establishment Perpetuation (IEP).

⁶⁴ *Southern Africa Policy Dialogue: Money in Electoral Processes*, International IDEA Policy Dialogue, August 15-16, 2016, Windhoek, Namibia

Namibia says, ***NO!*** No more private money funding of public elections. No more party nonsense. Citizens interview and choose candidates. The electorate is informed by a publicly run, fair, free and open Election Forum. One open primary precedes the general/final election. Maybe it would spread to the neighbors in the region?

Botswana; 2.34 million citizens

Often cited as one of Africa's most functional and peaceful democracies, has no public funding for political parties and no regulations regarding private funding of parties. One party, the Botswana Democratic Party (BDP) has been the ruling party since the British relinquished their colonial control and Botswana was formed in 1966.

There have long been calls for public funding and regulation of private funding for the parties, but since the BDP has such an overwhelming advantage, it's hard to see them relinquishing their control willingly, nor is there any leverage to force such legislation. In neighboring South Africa, the public funding has been overwhelmed by private cash going directly to the parties with no reporting required. The ANC and BDP have equivalent total domination from private cash. Both parties shake down their elected members for "reimbursement" contributions. Both require membership dues. They can make their own rules as they go. They are essentially ungoverned. How democratic is that? How do you spell democracy? It's – N-o-P-a-r-t-y. Botswana ranks 165th among 193 nations with women comprising 9.5% of its Parliament.

Angola; 29 million people

Not able to break the Portuguese Colonial shackles through constant combat from 1961 until 1975, the newly independent nation then plunged almost immediately into endless civil war. The warring factions MPLA, FNLA and UNITA struggled for control of Angola. Complicating this already hopeless situation was the involvement of apartheid South Africa, backing UNITA and, Cuba supporting the Marxist MPLA. Making it a proxy war of competing ideologies. The MPLA finally prevailed and became the ruling party of the nation in 2002 until this day. A new constitution was adopted in 2010, and it is referred to as a "presidential" republic.⁶⁵

Like the ANC in South Africa, we have the case where MPLA and UNITA morphed from opposing guerilla military groups, directly into political parties participating in electoral politics. Despite the formation of the Angolan national electoral commission, or CNE (Comissao Nacional Eleitoral), which is truly independent⁶⁶, the real power to influence elections lies in the former military groups, now political parties. Since the MPLA prevailed in winning the civil war, it hasn't lost an election. The real test of the efficacy of the CNE (and other similar commissions in other African nations) is whether the ruling party (MPLA) would accept defeat in an election any more than it would have accepted a military defeat.

However, it is important to note, that even in this most challenging of circumstances, Angola has laws to regulate its parties' funding. Foreign sources and corporate funding are outright

⁶⁵ *Angola country profile*, March 7, 2018. BBC World News, Africa Bureau, London.

⁶⁶ Inge Amundsen, Chair of the Michelsen Institute, *The Election Commission of Angola*, CMI, August 2013, Bergen, Norway

prohibited, for instance.⁶⁷ Like most every other nation, Angola, on paper at least, tries to limit the influence of Money on its elections.

In contrast, how does this make the US, the birthplace of constitutional democracy, the land of such great wealth and privilege, appear to the rest of the world? We espouse and preach democracy to the rest of the world, but, practice a naked form of oligarchy.

Angola ranks 48th among nations, with 30.5% of its seats in Parliament held by women.

NATIONS OF WEST AFRICA

Nigeria; 199,210,000 inhabitants

Having started out our survey of African nations with a brief summary of Nigeria's history, as it typifies the awful effects of racist European colonial atrocities, and ongoing multi-national corporate crimes, let us return to Africa's most populous country and largest economy for a look at Money and elections.

In early fall of 2008 I had the opportunity to spend about a month in Nigeria. From Lagos to Abuja to Jos and Bauchi and all parts in between, I can't recall having spoken with a single person who had a positive view of their parliament, president or elections. Terms like bribeocracy, rigged elections and kleptocracy were commonly used to describe how they felt. In other words, the prevailing view of their government was about on par with negativity we Americans feel towards our government, at least for the institutions of our legislative processes, the role of party politics, and Money in our elections. Like the divisiveness, polarization and reemergent racism we feel in our society today, a decade ago in Nigeria, old tribal enmities were still palpable. I remember distinctly one remark, "I don't know how it can be legal for you Americans to own guns – my god, if guns were legal in Nigeria, we'd kill each other...."

It doesn't appear that the situation in either of our nations has improved over the last decade. "It is my belief that until we fix our electoral financing laws, our elections will continue to be determined by money bags and not by the people...For as long as campaign funding is left to political merchants and people with deep pockets, elections in Nigeria will continue to be seen strictly in the business sense of investment and returns and the dream of government accountability to the people will continue to be a mirage."⁶⁸ Those comments were taken from a Nigerian op-ed piece by Christopher Akor last year. If you would simply delete Nigeria, and type in the United States in its place (or just about any other nation for that matter) the comment would be an equally accurate summation of the role of Money in elections. In fact, it may be easier for Nigeria fix its broken system with legislation than it would be for us in the US. In the US, we must first surmount our bad Supreme Court rulings. The only path us in the US is to amend our Constitution and direct the supporting legislation to follow.

⁶⁷ Electoral Institute for Sustainable Democracy in Africa (EISA) report, March 10, 2010, Johannesburg, South Africa

⁶⁸ Christopher Akor, *How are Elections financed in Nigeria?* Business Day Online, editorial page September 7, 2017 Lagos, Nigeria

Nigeria has only 5.6% of the lower house of its parliament represented by women; 182nd place in the world (out of 193).

Ghana; population of 29.3 million

Ghana has long been held up as the best example of good governance in Sub-Saharan Africa. President Obama visited Ghana early in his first term. Later, in March of 2012, after a bi-lateral meeting with Ghana's President at that time, John Atta Mills, in the White House, President Obama remarked, "...Ghana has proven, I think, to be a model for Africa in terms of its democratic practices. And I very much appreciate the efforts that President Mills has taken not only to ensure fair and free elections, but also to root out corruption, increase transparency, to make sure that government is working for the people of Ghana and not just a few."⁶⁹

But Ghana is still far from achieving anything near to a corruption free zone. It may be leagues ahead of its big brother in the region, Nigeria, yet the issue of Money buying influence through financing the Parties' election campaigns continues to plague it. Though discussed in its Parliament for years, Ghana has no public funding for the parties, nor meaningful regulation of private expenditures.

The top recommendation issued in a report by the African Union Election Observation Mission (AUEOM) to Ghana to observe the most recent general election (on the 7th of December, 2016), was to the Government and Legislature of Ghana: "Strengthen the legal framework dealing with party funding and campaign finance with a view to reduce the distorting role of private, opaque money to enhance the overall credibility of the electoral process." (And, prominently, "Introduce policies that enhance women's political participation...")⁷⁰

Corruption scandals in the government have continued rock the nation since the election, prompting President Nana Akufo-Addo to create a new independent position within the government, that of "anti-corruption tsar", or special prosecutor, naming Martin Amidu to the position in January of 2018. Amidu served as attorney general under former President John Atta Mills.⁷¹ The question is, will the new appointee merely prosecute perpetrators in an attempt to "root out" corruption without addressing the root cause, i.e. private Money funding of public election campaigns? Ghanaian women comprise only 12.7% of its Parliament; 141st among nations.

Liberia; population 2.8 million

Liberia stands out as a testament to the strength and resilience of democracy; having overcome the ravages of civil war, it has since seen transfer of its presidency from one party to another through orderly elections.

⁶⁹ Megan Slack, Deputy Director of Digital Content, *From the Archives: President Obama's trip to Ghana*, June 14, 2012, the White House, Washington, D.C.

⁷⁰ African Union Election Observation Mission to the 7 December 2016 General Elections in the Republic of Ghana, Final Report, African Union Commission, June 2017, Addis Adaba, Ethiopia

⁷¹ Christina Okello, *High hopes in Ghana after new anti-corruption tsar named*, Radio France International, January 12, 2018 Paris

In no small part, this is due to the comprehensive regulations in its Constitution and, through legislation which ban certain campaign finance sources from foreign, corporate, trade union and anonymous sources to both parties and candidates. In addition, Liberia sets limits on spending by parties and candidates with reporting, oversight and sanctions in place. However, there is no public funding for parties or individual candidates. This means that with the bans on contributions set out above, all the expenditures that the parties and candidates make, must come from private sources.⁷²

Despite having elected the Ellen Johnson Sirleaf as president over 12 years ago (the first woman ever in Africa – and to two terms at that) and, having recently elected another woman, Jewel Howard Taylor⁷³, to Vice-President, Liberia has very few women in its parliament; only 9.9% are women, ranking it 162nd in the world.

Senegal; population 16.3 million

Senegal has a ban on foreign donations to its political parties, but not to its candidates. Nor are there any other bans from corporate, union, or anonymous sources to either parties or candidates. Although there is no public funding to either parties or candidates per se, Senegal does make free media access available to its candidates and parties. In the case of parties, the amount of free and subsidized media access is based on the number of seats held in parliament. Candidates themselves are also allotted equal outdoor billboard space as well as free and subsidized media in both broadcasts and newspapers.⁷⁴ By all reports the last election was quite tense.

Not to suggest causation, but the brilliant International IDEA tool⁷⁵ identified some loopholes to allow Money into the hands of Senegal's politicians; unlike the Liberians who, ban foreign gifts, period. (Again, not to suggest *causality*, but, Ellen *Johnson*⁷⁶ Sirleaf happens to be a woman.)

Reputation for stability lures new foreign investors into Senegal. There has been a surge of interest from beyond traditional western sources.

Imagine a photo of Pres. Macky Sall, and Turkey's strong man wannabe Erdogan, looking quite predatory there on the carpeted tarmac. Captioned: *Doing Business*. So, starts the story by Neil Munshi in the Financial Times, April 19, 2018.

I have just been slogging through this travelogue up the Atlantic Coast, just about to sum up the brief and unimaginative stop in serene Senegal and I bump into Financial Times feature article, just out today. Look it up yourself, it makes more than an interesting footnote here – it turned into the story! Because, also today in Dakar, out from Reuters: *Senegal erupts in protest over new election law*.⁷⁷ There were some more than vociferous protests, and even some crazy

⁷² *Political Finance Data Base: Liberia*, International Institute for Democracy and Electoral Assistance (International IDEA) 2018, Stockholm

⁷³ Charles Taylor, yes, the same, sentenced to 50 years for war crimes by the international court, was/is her husband. She says she didn't know what he was up to when the crimes were being committed.

⁷⁴ *Political Finance Data Base Tool: Senegal*, International IDEA, 2018, Stockholm

⁷⁵ SAB (same as above)

⁷⁶ The name *Johnson* implies that she is a descendant of ancestors who had repatriated to West Africa from North America.

⁷⁷ Reuters staff report: Diade Ba reporting, April 19, 2018, Dakar, Senegal

pushing and shoving moves⁷⁸ being made on the parliament floor (!) over a bill which is what the protestors (from minority parties) felt was tantamount to excluding them from running for office. Tires were burned in the streets, but no gun fire (gun ownership is illegal, of course). The popular Mayor of Dakar, once touted as a possible presidential contender, Khalifa Sall (not a relative of President Sall) was recently sentenced to 5 years in jail. That probably contributed to today's fracas. Mayor Sall of course, claims the whole \$2.4 million gone missing from city of Dakar public funds crime he was prosecuted for, was a frame up by Pres. Sall. Sall v. Sall ? (I think they should just wrestle it out – now that match would be would be a real Sall-out).⁷⁹

Back to the Financial Times feature story by Neil Munshi. It goes into great detail about all the foreign investments pouring into Senegal as presided over by President Sall. Mayor Sall and his party and cohorts, were certainly not in on any of the big-time dealings with national contracts from Turkey to China to Nigeria. This story in depth story was a long while in research and writing. Obviously, The Financial Times could not have known that it would be published on the very day that it would be put in such stark coincidental contrast to the events of the day in Dakar. And, what makes it even more cosmically coincidental, is that it is exactly what I just happened to be writing about on this very day. I have described many an account of the Dick Cheney Nigeria Bribery, Odebrecht Octopus or “carwash” scandals, and Koch Brother's Money Coup variety. But to have it all line up on one day like this in Senegal seems eerie. Women comprise 41.8% of the Parliament in Senegal; 12th in world.

Either the citizens of Senegal could do it, or we US citizens are very well situated to stand up once again, as we did 230 years ago, and show the world a way out of these needless abuses, and paralyzing paradigms with adoption of something close to the constitutional amendment we humbly propose.

EAST AFRICA

Kenya; population 50.6 million

Kenya has stood out in recent months because of its bitterly contested national election last fall that had to be held twice before it could be declared that Uhuru Kenyatta had been re-elected to a second term as president. It sparked violence, resulting in deaths. The re-run of the election was boycotted by Raila Odinga, who had disputed the results of the first election. Total amounts spent (unknown for certain) were over-the-top, literally. Kenyatta and entourage took an actual a 'copter campaign tour.

Faith Kiboro, in her article, *Kenya's election jitters have roots in campaign financing*, written just before the initial election, encapsulated Kenya's issue, “The problem is a political system in which the overwhelming majority of political contributions come from a tiny number of individuals. Kenya must shift from this model of financing because it turns politics into a high-

⁷⁸ This is especially crazy when you take into account the traditional wrestling bouts that still command the nation's attention (something like the World Series or the Final Four in the US).

⁷⁹ SAB (Same as above)

stakes game that very often turns violent.”⁸⁰ In her article, Kiboro also points out that while Kenya has established some public funding for the parties, the amounts the parties qualify for are based on the percentage of votes received in the previous election, with a threshold that eliminates smaller parties. Regulation to limit contribution amounts, reporting and enforcement was established in the *Election Campaign Financing Act (2013)* but it is spotty and loopholes exist, “...party finances are still not well tracked, and therefore, large corporations and wealthy individuals can continue to heavily fund campaigns without much scrutiny.”⁸¹

“...Kenya’s highly educated and well-trained workforce, at least relative to many other African countries, means that there is a whole cadre of skilled workers in legal departments who must have work to do, fueled by legions of stakeholders, non-profits and NGOs that do the work of ‘good governance’ in its various forms. It is sustained by the so-called ‘seminar circuit’ and ‘conference economy’. The whole thing then condenses a strange equilibrium where laws get written, then trashed, then keep getting written”⁸² Kenya has a lower house in its parliament that is 21.8% women; 87th globally.

The lesson is that without enforcement measures in place to uphold a law, it might as well not have been written in the first place. Kenya is no exception. Witness the Tillman act of 1907, signed into law by President Theodore Roosevelt, which outright banned corporate contributions in federal elections, as the most infamous example. The properly proscriptive constitutional amendment we propose will accomplish its intended purpose in in the US. And there is no reason that in Kenya, or in any country, that it could not be adopted as well, to meet this universal need, created by this global problem.

Rwanda; population 12.4 million

Using the International IDEA *Political Finance Data-base* we learn that Rwanda’s only bans on political contributions are on anonymous and foreign sources to the parties. There is a robust program for public funding, including equal media access. On the other hand, there are few stipulated limits on spending, and yet there are fairly stringent, and enforced, reporting requirements on identifying the sources of contributions and the amounts that the parties receive.

But this doesn’t really tell the story. From the aftermath of the genocide Rwanda has been a one party, Rwandan Patriotic Front (RPF) country – and really, a one man, show. Paul Kagame, is credited for ending the genocide and putting the country back together. And since then, he and *his* party RPF have ruled the roost. One could argue that his benevolent rule has worked for the benefit of all Rwandans...as long as you agree with him, that is. Opposition is harshly treated. There have been many civil rights abuses reported. Kagame and his military are active on many fronts. Including cross-border actions, that are justified as peace-keeping missions.

The goal of gender equality in the parliament has been more than realized. Currently, Rwanda tops the chart internationally, where 61.3% of its lower house are women. The Constitution mandates that 30% of the Parliament’s seats must be held by women. And, Kagame has pushed

⁸⁰ Faith Kiboro, *Kenya’s election jitters have roots in campaign financing. It’s time to act*, The Conversation US, August 6, 2017, Boston, MA

⁸¹ SAB

⁸² Christine Mungai, *Campaign Financing in Africa, Plus Kenya’s Strange Equilibrium of Laws That Are Written, Then Promptly Trashed*, Africapedia, June 13, 2017 Nairobi

for more women to be appointed to positions traditionally held by men, in addition to the Parliament quota.⁸³

A comparison could be made to the developments in Bolivia and Ecuador where strong (but progressive) male leaders, and *their* parties have promoted gender equality with similar mandated representation quotas for elected office. Kagame, like Morales (Correa fortunately not) changed the constitution to stay in office...It almost goes with the territory. For any one person to act in the best interest of a huge electorate is the big leap of faith required of republics or any form of representative democracy. It's big ego territory. Especially for a general or soldier to then become *the* political leader like Kagame or Museveni (in neighboring Uganda – coming up next), Dos Santos, or Fidel. Is it the “old soldiers never die” maxim? Or, is it that the Money is simply irresistible? If the Money is removed from the equation, as we suggest, the likelihood of certain types needing to hang on to office goes way down, though not eliminated. Mo Ibrahim (Cell-phone billionaire gone all good governance all the way, now) is betting on it too!⁸⁴

It's also another argument for term limits. Immutable term limits -- chiseled into granite, with a highly proscriptive clause -- perhaps?. Despot anti-dote? We'll examine this in our last chapter, entitled, *While We Are at It*.

Uganda; 44 million

Yoweri Museveni, played a notable part in the removals of Idi Amin and Obote (Idi's error apparent). He was elected president soon after Obote was gone. Museveni and *his* party, National Resistance Movement (NRM) have held onto the presidency for 32 years, sworn in for the first time just 7 days after Obote was removed. Skirmishes with tribal “elements” have been a constant thorn. Bush crazies, like the Lord's Resistance Army (or Boko Haram in Nigeria) just can't be put down, it seems. Museveni has also involved the military in cross-border “police” actions (like teaming up with Kagame to overthrow Kabila in the Congo).

But in most parts of Uganda life goes on peacefully in a nation the size of Oregon (about 100,000 square miles.). Though war refugees from Congo and Sudan by the hundreds of thousands are in camps within its borders now (April, 2018). 41 indigenous languages are spoken. The nation is physically blessed, from the towering Renzori Mountains in the West (snow-capped year-round -- on the equator!); surrounded by the great lakes (Lake Victoria, source of the Nile, on South is 2nd only to Lake Superior for surface size); verdant hills, rich soils, many varied crops; wild and managed forests, breaking into savannas and brushland too; national parks and wildlife refuges, spectacular waterfalls. Winston Churchill dubbed it, “the pearl of Africa”.

⁸³ The genocide killed off a disproportionate number of men, so that the country's population was 60-70% women, leaving Kagame no choice but to promote women. (from an article adapted from a National Public Radio podcast, *Invisabilia*, by Gregory Warner July 29, 2016, Washington, D.C.

⁸⁴ \$5 million up-front, and \$200 thousand a year for as long as you live is what I call the “Mo Go”. So far, Kagame and Museveni said, “No Mo” (couldn't resist). To be fair, Mo has also laid down some achievement parameters to qualify for the payment to leave office as constitutional term limits require that must be attained in order to get Mo's show ‘em the “door prize”. (Sorry)

Life in the villages, rural agricultural areas, lack electrification etc. but otherwise thrive. From my observation, people are healthy, farms are well tended and living areas (compounds) are all very neat and artful. This is where all the oldest children, who inherit the land reside, inheriting the farm from generation to generation -- like in much of Sub-Saharan Africa (SSA). Not rich, in money, but maybe richer in other ways?

Then there are the towns and cities, where all the younger off-spring must try to make a go of it. Like in most of SSA – often not so nice. Many never leave the slums.

Some though, *do* “make it”. And they inhabit “the nice areas” in leafy, hilly Kampala, or by the lake (Victoria). But all yearn to return (and do visit -- with gifts – almost required) to *their* village. Education is prized, and the Universities thrive.

Despite Museveni’s dominance, intolerance of homosexuality, and tolerance of polygamy, and institutional tribalism, Uganda otherwise appears quite progressive. It replaced its old British-baked constitution twice, most recently in 1995 and adopted a parliamentary constitution which proscribes party practices and rules amendments, a la’ many European-styled parliamentary constitutional governments in 2005. It mandated that 1/3 of the seats in its single house are to be held by women and, there are laws that guarantee women’s inclusion at all levels of government. (Yet polygamy is allowed, that is men may have more than one wife, *not* vice-versa of course).

In that same vein, the new constitution in 1995 and its update, though very progressive (*mostly – except for no term limits—glaringly*) yet leaves the door open in crucial spots to allow Money to slither through like a green snake. Most notably: no meaningful or enforced limits on campaign spending, according to the outcomes of a 10-month study by the Alliance for Campaign Finance Monitoring.⁸⁵ The report showed that in his 5th re-election bid, Museveni and *his* NRM, (who prevailed in the February 2016 election) spent 12 times more than his two closest rivals combined. The amount spent far exceeded anything previous.

Christine Mungai’s pithy comments quoted in her op-ed cited above in our section on Kenya⁸⁶ about the phenomenon of the NGOs and Non-profits (mostly foreign) stumbling over each other to sponsor the “conference economy” with its “seminar circuit” holds true in Uganda too. I witnessed it first-hand on a trip in 2012. There are an awful lot of papers and studies produced, some of which are excellent, on a plethora of problems including, and especially, on “good governance”. Without responsible productive governing none of plethora of needs have a realistic chance of being met. We all know what the problem is. Look at what people in Uganda were writing six years ago:

“Money is buying our elections. It is like a virus spreading over our earth. We don’t have political leaders serving people, we have political dealers for Money.” Nyaketcho Clementina, Kampala, Uganda (From a comment posted in the NoMoneyElections.org (NME) website, first edition, June, 2012.

⁸⁵ *Alliance for Finance Monitoring Report 2016*, delivered at the Africana Hotel May 26, 2016 Kampala, Uganda

⁸⁶ See footnote 37, above

“It takes too much money to run for elected office. Taking money obliges a candidate to its source. This is the root cause of corruption in Uganda, the US and countries around the world.” Mutete Mbona George. Kampala, Uganda. (From an e-mail to NME in February, 2012.)

I have to credit Ms. Nyaketcho for coining the terms leaders/dealers by switching the first two consonants. And of course, just, Money, short hand for the many shape shifting euphemisms depending on the context: expenditures, contributions, donations, special interests, monied interests, corporate interests, issue advocacy, lobbying, backing, supporting, spending, funding, financing ...it all comes down to cash – campaign-cash, i.e. **Money** for votes.

Another Orwellian euphemism is “Campaign finance reform”. Isn’t that like fighting alcoholism with an approach like, “Alcohol consumption reform”?

As you have seen in every nation, Money muscles its way into control of government. We say no. Here is what we want... It’s all spelled out right here, in the NME proposed amendment. We don’t have to march, protest, rally, holler, chant, name call, or engage in any kind of negativity. Or, study again and again what we the people *all, all over the world*, already know.

Your petition gives *us* the power to *govern ourselves* responsibly, with integrity, dignity and pride.

This amendment and its implementation could be adopted, and adapted anywhere, because it’s needed everywhere, from Uganda to USA.

Currently 34.4% of the members Of Uganda’s single house of parliament are women; 32nd among nations.

Ethiopia; population 107 million

To say Ethiopia is a rich tapestry of diverse cultures and ethnicities with four separate language groups and 88 different languages spoken (interestingly, similar percentage of languages to land area as Uganda) would only begin to describe its complexity. It is *the* oldest country in Africa and was never colonized. As of now (April 2018) over 1 million people have fled their homes due to ethnic warfare between two, Oromo and Somali, of the four major ethnic groups; the other two are Amhara and Tigrayans.

The most recent legal structure of Ethiopia, the Federal Democratic Republic, emerged in 1991 and has essentially been under one party domination since. The Ethiopian People’s Revolutionary Democratic Front (EPRDF) assumed control by having a big role in the ouster of the Derg, a Soviet backed one party Marxist regime, which had deposed the long-time ruler, Haile Selassie. The Constitution has been the legal framework since 1994, with a national federal parliament that has two houses and sets out nine semi-autonomous states, which in turn are divided into 68 separate legal zones and from there further into 550 sub-districts. Each with their own specified authority.

As to party rules, and specifically to campaign finance: There are some rules, but the loopholes are big and plentiful. For instance, there is a ban on foreign contributions to parties but not to

candidates. There are no bans on corporate donations, to parties or candidates. There is public funding for parties, including equal media access to parties. But, again it's our old friend IEP, the amount of public support is based on election results. The more votes you get the more public money you get, which sets up the conditions for one party domination. Yes, the parties have to make financial reports – but not the candidates. And since there are no limits on party or candidate spending with no bans for most types of contributions – it's one of the most loophole laden systems on paper, of any in SSA⁸⁷. When one party has such dominance as does the EPRDF, it's hard to see how it gets any better without fundamental structural change – which is exactly what is needed.

Abiy Ahmed, it seems, is the one person can make a difference. A profound difference. In a recent discussion with a friend of Ethiopian roots, we naturally went to Abiy Ahmed. In his short tenure as Prime Minister he has managed to untie the knots of old torturous violent conflicts that had long been crippling the country. My friend was very impressed, reminding me of Ahmed's visit to Minnesota to speak to the large Ethiopian diaspora here. He is clearly a phenom. Wise beyond his mere 42 years. "It's so promising for us, but will the peace hold?" my friend fretted, "We must hope it will." If recent confirmed reports of the outbreak of military violence are any indication, then we can only hope it is an isolated, one-time relapse? Ancient enmities are undying in dead-end neural alleys. 38.8% of the seats in Ethiopia's lower House of Parliament are currently held by women, making it in 18h place internationally.

NORTH AFRICA

Tunisia; population 11.7 million

Tunisia has the second newest constitution in the world (only Nepal's is older and Tunisia's is only 8 days newer than Egypt's). Tunisia's new constitution gives authority to a nine-member election commission and gives it a fancy name "the Supreme Independent Elections Commission" (referred to as ISIE – its French acronym). The Commission has responsibility for the management and organization of elections and supervising them "in all stages, ensuring the regularity, integrity, and transparency of the election process..." It will be composed of nine "independent, impartial, and competent members, with integrity..." to serve staggered 6-year terms.⁸⁸ Though not specified in the constitutional article, the supporting legislation stipulates that the ISIE members are elected by an Assembly Plenary of the parliament. The ISIE function and funding are very well defined in several laws.⁸⁹

Unique in the world, in Tunisia's new constitution, is Article 130, a mandate establishing *The Good Governance and Anti-Corruption Commission* which will be responsible for, "promotion

⁸⁷ *Political Finance Data Base Tool: Ethiopia*, International IDEA, 2018, Stockholm

⁸⁸ Note: coincidentally it's the same term we suggest (in our case) for District Office for Voter Information Board Members in our proposed NME amendment

⁸⁹ Mohamed Chafik Sarsar, *Tunisia: The Independent High Authority for Elections*, from *Electoral Management Encyclopedia*, published by ACE Project, The Electoral Knowledge Network

of a culture of good governance, and for the consolidation of principles of transparency, integrity and accountability”. The commission will be responsible for “monitoring” cases of corruption carrying out investigations and referring them to “competent authorities”. “The commission must be consulted on draft laws related to its area of competence” and can, “give its opinion on regulatory texts”.⁹⁰

The intentions behind the formation of these newly mandated commissions are certainly laudable, but they are not nearly proscriptive enough to instruct the supporting legislation that must turn the intentions into reality. Ambiguity, leading to misinterpretation and possible manipulation, is the chief problem authors of all constitutions, constitutional amendments and legislation face. It’s hard work. Then the critics come along and pick it apart.

In Tunisia’s case, their new constitution was wrought despite the upheaval and turmoil created by the toppling of *their* tyrant and his oppressive regime, and its aftermath, including assassinations, other violence, intimidations and threats. In this context, outsiders, like myself, should really instead look for the positive. The question should be: what supporting legislation has resulted from these well intended articles?

So far, the legislation on regulating campaign finance has hit all the right notes (within the prevailing paradigms). Bans, limits, reporting and enforcement provisions are all the law of the land now in Tunisia.⁹¹ In addition the ISIE has enlisted international perspectives and assistance; witness the global conference held in Tunis on March 28, 2017, attended by 200 experts from around the world. “Participants stressed the risk that without strong oversight, the control of political finance can remain purely theoretical”.⁹² (Please refer to the earlier survey of Mexico’s campaign finance laws for an example of how important this is.)

It is with this in mind that we so strongly advocate for *No Money Elections*; zero is an absolute, it provides the brightest of lines, zero can’t be manipulated or cheated. It makes prosecution certain. Federal Criminal Offense with jail time sentencing = strongest possible deterrence.

Tunisia has a single house in its parliament and its members are 31.3% women; ranking it 43rd globally.

Why not go on the new constitution path straight to the newest, Nepal (instead of rigorously geographical, as has been the course thus far?)

ASIA

⁹⁰ Synopsis of these constitutional articles were taken from the translation by The United Nations Development Programme, prepared for distribution on ConstituteProject.org with documents recompiled and reformatted using texts collected in International IDEA’s ConstitutionNet, published by Comparative Constitutions Project (CCP), January 17, 2018, Cline Center for Democracy, Champaign IL, USA

⁹¹ *International IDEA Campaign Finance Tool: Tunisia*, 2016, Stockholm

⁹² *Tunisia’s Election Commission Organizes Global Campaign Finance Conference*, a feature article published by the International Foundation for Electoral System (IFES) April 11, 2017, Arlington VA, USA

Nepal; population 29.6 million

The world's newest constitution of the Federal Democratic Republic of Nepal translated to English *unofficially* by the Nepal Law Society, International IDEA, and UNDP, and produced from texts in the *repository* of the Comparative Constitutions Project and distributed by the constituteproject.org in a 168pg. pdf is the source for these observations. There is an Election Commission consisting of a Chief, and four others appointed by the president to 6-year terms.

The commissioners being political appointees makes impartiality less likely. To the framers' credit they stipulate that the appointee cannot be a member of any political party *immediately* before appointment, and, "d. possess high moral character". The laws on books are sparse, again from International IDEA's nifty Campaign Finance Tool (II-CFT), one could surmise: loopholes not needed, it's wide open.

It was well known that Nepal was crippled by political corruption; the previous government had virtually collapsed under its weight. So, the hope would be that the Tunisian example would have been duplicated, seeing the need was so dire – like Tunisia's? No, unfortunately not. Not if the new constitution and laws on the books are any indicator.

Old laws and ways always hold on longer than they should. Who wants to get involved in politics? Why bother, nothing ever changes anyhow. We are all lost, beyond hope, fatally flawed, just a bunch of selfish/narcissistic, greedy- all-consuming-environment-poisoning sinners...we're doomed. All true. We plead guilty as charged. But why succumb to fatalism, which only serves to hasten our demise?

In the US, *you* (each of us) can merely either mail or (better) hand a petition, a right as guaranteed in our (your) First Amendment, to your state representatives. You don't have to change your life. It's one small act at *your local level* (in the case of this proposal). In the US we are so lucky to have the right to petition without fear of reprisal.

A negative outlook/apathy/cynicism is the only thing stopping us in the US. In some countries you might get whacked just for speaking, or being a family member, or suspected of...

And for more repetitive grist: The worst places are those places where the power has devolved to one party, or worst, to one man and *his* party. He might even have been the revolutionary who deposed the despot who is now himself a despot. Power corrupts -- term limit *interrupts* -- absolutely. For more on adding term limits to this proposed amendment, please see our chapter, *While We Are at It*.

Nepal ranks 37th in the world, with women comprising 32.7% of its lower house of parliament.

India; population 1 billion, 351.5 million (and growing at a rate of about 1 person per second⁹³)

⁹³ *Worldometers*, April 24, 2018, real time counting models arrived at by the proprietary algorithm of Dadax , a private company, from statistics compiled by a number of trusted sources i.e. the national census in each country, UN, World Bank etc.,

Zoya Hassan, is a noted author and former Professor of Political Science and Dean of Social Sciences at Jawaharlal Nehru University in New Delhi. In a lead story, *A vote for state funding*, January 18, 2018 in *The Hindu*, New Delhi, she first bluntly called a proposed bill before parliament to create “Electoral Bonds” to finance campaigns as a scheme that would make sources of the money anonymous under the guise of imposing limits on contributions. It would worsen an already bad situation all in the name of “reform”. Are the chief proponents supposing the public won’t notice, since it is touted as reform? It is reform to advantage the already dominant players within a very corrupt system by making donors anonymous! Hassan wrote in her article, “Subversion that such anonymity affords is perhaps one of the biggest threats to our democracy today; it is the very wellspring of institutionalized corruption.” Dark Money anyone? It’s universal. LBJ’s wise-crack has been echoing true for over a half-century now: “Campaign finance law is more loophole than law”.

Another inescapable reality: all of the nations surveyed have seen a spike in campaign spending in the past decade. It’s said, without a precise audit to point to, that the 2016 US presidential campaign was anomalistic in that spending was down. But, over-all, for all federal and state and federal elections (and their equivalent in other nations) costs are spiraling higher and faster.

Hassan closes by making her pitch for State (public) funding of elections. Without laying out specifics (academics are great at stating the problem, but lack in putting forth solutions -- almost by definition – they study things), she says something that is very close to what we are proposing, *it’s not impossible*: “The mechanics of this process [public/state funding] needs to be carefully worked out...” but based on the experience of countries who do fund campaigns with public funds, “...it will not be difficult to work out a formula that is both efficient and equitable to ensure that democracy works for everyone and not just for the wealthy few.” Please consider our proposal, Doctor. It’s very straightforward and much simpler and much, much less costly than any privately funded public election.

Currently India does require expenditure reporting by the parties and its candidates but there are no corresponding penalties or effective enforcement mechanisms...still.

India sadly has come to be known for its pervasive and endemic corruption. It’s been that way for a long time. What is relatively new are loud public demands from millions and millions to put an end to it. But how? “Expecting the cleanup to come only by re-enforcing anti-corruption laws though necessary will divert attention from the real issue of corruption – how political parties collect funds...” and “the fountainhead of corruption – the opaque management of political parties which includes the source and deployment of their funds.” These are the words of Shailaja Chandra,⁹⁴ Vice President of Initiatives for Change – Centre for Governance, a New Delhi think tank. In 2012, Ms. Chandra had already proposed the solution that Dr. Hassan (cited above)⁹⁵ has reiterated. Ms. Chandra: “One way of overcoming the clandestine collection of election funds would be to introduce state funding of elections as so many countries have done.

⁹⁴ Shailaja Chandra, *Striking at the root of corruption*, (lead opinion article) *The Hindu*, November 27, 2012, New Delhi

⁹⁵ SAA

More importantly there is a need to mandate transparency in the deployment of political party funds coupled with rules that democratize inner party functioning.”

These views and proposed by Shailaja Chandra and Zoya Hassan are echoed all over the world. There is a universal perception that if the sources of campaign funds were required to be made public that would in itself result in better governance. In the US the DISCLOSE Act, (a really stretched acronym for: **D**emocracy **I**s **S**trengthened by **C**asting **L**ight **O**n **S**pending in **E**lections) was first introduced in Congress back in 2010 up and repeatedly until 2017. There are organizations such as OpenSecrets.org, and the Sunlight Foundation dedicated to publicizing campaign spending sources. Transparency is good; we *should* know who, is funding whom. Right?

Of course, we should, but will it result in better governance? Not really. We’ve been down this path before with the Publicity Act, which unlike the perennially proposed, DISCLOSE Act, was signed into law first by President Taft in 1910. It was amended to strengthen and broaden its scope right away in 1911, and again later in 1925 (it is also known as the Federal Corrupt Practices Act).

In its first iteration it was meant to augment the already ignored Tillman act of 1907 (for more see our chapter, *Reform Problem.*) Back then, we knew that J.P. Morgan, Andy Carnegie and J.D. Rockefeller were the kingmakers with *their* Money. Now, we all know the Koch Brothers cabal, Sheldon Adelson and Tom Steyer are throwing lots of Money around. Yes, and we’ve known for some time that this the world we live in. Has that translated into any kind of substantive laws in either the US or India? Ever?

There is one other very important difficulty in creating laws that can deliver good governance. Ms. Chandra advises that we must make rules that “democratize inner party inner functioning”. As John Boehner put it in describing what it was like to be speaker of the House, which also applies to Ms. Chandra’s advice: “It’s kinda like trying to move frogs down the road in an open wheelbarrow.” Even where there are few parties active in a nation’s political system, regulating what goes on *within* a party is practically impossible. In nations that have many parties the problem is magnified. Even if there are laws governing the inner dynamics of parties, reporting, accounting, oversight, not to mention enforcement, requires a huge and sustained effort.

What we are proposing would obviate the need for all that. (Parties could still form of course – the right of the people to peaceably assemble is guaranteed in our First Amendment.) In addition, removing the Money pressures parties are under, would allow them to be incubators of ideas to meet the needs of people, not the demands of their paymasters.

Ranked 147th internationally, India’s lower house is 11.8% women.

Malaysia; population 32 million

One story tells it all. While our media attention was stuck on the Mueller investigation, just look at the mess in Malaysia, with its collection of unseemly characters all connected and spinning around Donald Trump. 1 Malaysia Development Board (1MDB) was a state development fund

created and overseen by then Prime Minister, Najib Razak (PMNR). It has been the center of a multi-national money laundering investigation, which prompted former US Attorney General, Jeff Sessions to call it, “kleptocracy at its worst”. So, you know it had to be bad. Federal investigators from six nations are working on it, including: China/Hong Kong, Singapore, Luxembourg, Switzerland, and the US. Investigators estimate that \$4.5 billion got siphoned from the fund into the bank accounts of top Malaysian Officials, including PMNR, who described the \$681 million that just appeared in his personal bank account as a “gift” from a Saudi royal family, not pilfered from the state funded 1MDP.

Remarkably, PMNR had eluded prosecution at home, with the time-honored methodologies of firing critics in the government (including his own deputy), finding an attorney general who would, and did, find him not guilty of any collusion or wrongdoing, and belittling and intimidating journalists and their efforts to get at the truth. PMNR was still slated to appear on the ballot for re-election in the scheduled 2018 elections.

1MDP may be even stranger than the Odebrecht octopus, “carwash” scandal, still rocking most of South America. At the center of the 1MDP investigation is a Malaysian national “financier,” who was a former “unofficial” advisor to 1MDB, now fugitive at large, named Low Taek Jho, or Jho Low, or simply Low (as in how *low*, can you go.)

Into Low’s black-hole were sucked a constellation of luminaries from all over the planet, including from the US. (Malaysia-gate anyone?)

For instance, Leonardo di Caprio (yes, the movie star) has forfeited the paintings and other “gifts” given to him by Low, as instructed by the US Department of Justice (DOJ) newly formed, “Kleptocracy Asset Recovery Initiative” (KARI). Low and his good friend, Riza Aziz (stepson of PMNR) co-own Red Granite Pictures, Inc., producers of the box-office hit, *The Wolf of Wall Street* (how ironic). Low also owns \$107 million worth of interest in EMI Music, among many other US assets such as, a hotel in New York. The FBI for KARI, in cooperation with Indonesian police moved to seize Low’s \$250 million yacht in Bali (named Equanimity – why is there such insistence on the insulting naming of luxury yachts?). But the full seizure of the yacht at this point has been blocked by an Indonesian judge under a technicality (one can’t help but wonder if the ruling wasn’t prompted by a bribe from Low).

Elliott Broidy and his wife, Robin Rosenzweig, an influential political attorney, have also been implicated. Broidy, long-time top Republican Party donor, who was also vice-chairman of the Trump campaign and Republican Party joint fund, was hired by PMNR to prepare the talking points for PMNR’s controversial meeting with Trump in September, 2017, at the White House, in which PMNR, with Broidy’s coaching, pledged public support for US efforts to isolate North Korea. It has not been determined what else was discussed during the meeting, but some of the speculation surrounding the influence of Broidy in putting the meeting together trashes the appearance of conflict of interest standard, at the very least – or just reeks of corruption.

The Wall Street Journal reported in March 2018 that Broidy and Rosenzweig had been in negotiations with Jho Low to receive an \$8 million retainer and a \$75 million payment if they could get the DOJ to drop its KARI investigations of Low. Low, Broidy and Rosenzweig met in “elite” Hollywood circles – where Rosenzweig has worked in movie producing. In April of 2018, The New York Times, revealed, in a trove of Broidy’s e-mails it had obtained, that Broidy

was desperately angling for a round of golf between his client, PMNR, and Trump during their September '17 meeting, hoping it somehow would result in his (Broidy's) winning of a contract for Circinus, his "private defense company" (mercenaries) with the Malaysian government.

Of course, PMNR and the Donald were already "old golfing buddies" having teamed up in a doubles-round at Trump's Bedminster Golf Club in New Jersey, back in 2014. Apparently, PMNR likes staying at Trump properties. During his visit to Washington he stayed at the Trump hotel in the restored old Post Office Building just down the street from the White House. Emoluments anyone?

In March 2018, the Vancouver Sun reported that the FBI, had begun an investigation, again for the ongoing KARI investigation of 1MDB, into the financing and partnership of Joo Kim Tiah with Ivanka Trump (acting head for the Trump organization's part) to build the Trump named tower complex in Vancouver. Tiah is one of the wealthiest men in Malaysia and one of his companies was the money behind developing the property and, owns the lion's share. The FBI is trying to determine if allegations that 1MDB funds were used are true, the possible emolument clause violations aside.

Back to Broidy. The New York Times had reported that Special Counsel Robert Mueller's team is now scrutinizing the activities of George Nader, a Lebanese political operative, money man and influence peddler, employed by the United Arab Emirates (UAE) as an "advisor", for his attempts to funnel money to the Trump campaign. In the aforementioned trove of Broidy's e-mails, it had been shown that Broidy and Nader worked closely to push UAE's agenda at the White House to give tacit approval of UAE's (and Saudi Arabia's) illegal naval blockade of Qatar. Broidy is not a registered agent for the UAE, and his work with Nader on the UAE's behalf was to secure a contract for his Circinus Defense (mercenary) Corporation with the UAE. That makes it OK?

On March 13, 2018 Broidy co-hosted a Trump/Pence 2020 reelection fundraising dinner in Beverly Hills. To get into the gala-event you had to spend a minimum of \$35,000 (\$50,000 per couple). It cost \$100,000 to get your picture taken with Trump and \$250,000 if you wanted to be seated at the same (very large, round) table with the Donald, according to a story in the Los Angeles Times.

One month later, on Friday the 13th of April, 2018, Mr. Broidy, in a written statement delivered to the press resigned from his post as a Deputy National Finance Chairman for the Republican National Committee, after a story appeared in The Wall Street Journal reporting that Michael Cohen (yes, the same Michael Cohen – Trump's self-described fixer) had agreed to pay \$1.6 million to a 2010 Playboy Playmate. In Broidy's words, in the prepared statement, "I acknowledge that I had a consensual relationship with a Playboy Playmate. At the end of our relationship this woman shared with me that she was pregnant. She alone decided that she did not want to continue with the pregnancy, and I offered to help her financially through this difficult period." His fellow Deputy National Finance Chairman for the Republican National Committee, Michael Cohen, set up those payments, the first of which was made in December of 2017. Nice of them. (Some speculate that Broidy is taking the fall for Trump, who was the actual impregnator – the same false names were used in Cohen's documents for both pay-off arrangements to both women.)

It has been difficult to write this segment on Malaysia because the story keeps unfolding as I write; for example, I hadn't even heard of Elliot Broidy before I started. Now, PMNR is no longer Prime Minister Najib Razak. On May 10, 2018, he was voted out of office by the people of Malaysia in a forced election. The 92-year-old former prime minister Mahatir Mohamad came back to win the election in a campaign in which he prominently promised, among other things, to end corruption and get to the bottom of the 1MDB scandal. And he has wasted no time. Najib, who was Mahatir's protégé and successor, and his wife tried, but were prevented by their old mentor, Mahatir, from leaving the country – maybe they were going to meet up with Low for an exile cruise aboard the *Equanimity*? (It was reported they were headed for Indonesia, where the yacht is currently moored in Bali.) Police in Kuala Lumpur have seized hundreds of designer handbags stuffed with cash, jewelry and even gold bars from a vacated residence owned by Najib's family, as reported by The Guardian. Things look bad for Trump's "old golfing buddy", whom Trump referred to after their initial meeting back at his Bedminster, New Jersey Golf Club, as, "my favorite Prime Minister".

Maybe it's not so much that power corrupts as that corrupt characters are drawn to the bonfire of campaign cash, where checks written in amounts with many zeros are handed out freely by the really rich. It must be irresistible to certain types of people. They follow the Money across borders but inhabit a small world; corrupt Malaysians interact with corrupt Americans in a corrupt little realm onto their own. If these interactions didn't so adversely affect the lives of so many citizens it would just be comic. Do you think any of the characters in this pathetic tragedy would be at all attracted to politics if there was *No Money*?

Malaysia's lower house of parliament consists of 10.4% women; 157th among nations.

Indonesia: population 267 million

In Indonesia, the world's 4th most populous nation, there have been attempts to quell the rampant corruption that plagues most nations. After Suharto was deposed there were great expectations that the reform which followed would really bring about positive change. Campaign finance laws were written and passed into law. But, as usual, since the laws were written by those in office, loopholes were cleverly left to allow Money to find its way to those writing the laws. The most glaring of which is that there are no limits on donations or spending either for parties or candidates, according to the International IDEA *Political Finance Data Base Tool* (II-PFT).

In an article by Indonesian writer and lecturer, Muhammad Beni Saptura wrote, "...the political year of 2018 will not be much different than in the past...the promise echoed by reformation (reformasi) which once guaranteed that politics is for all, has now proven to be just an illusion. In reality Indonesian politics is still exclusively for the county's elites. Politics in Indonesia is expensive, it can only be entered by the rich."⁹⁶

Indonesia's single house of parliament has 19.8% women among its members; 102nd among nations.

⁹⁶ Muhammad Beni Saptura, *The Diplomat*, January 24, 2018 Washington D.C.

Japan: population 127.2 million

In Japan, parties can accept and spend Money without regulation (BIG loophole). On the other hand, candidates, themselves, are regulated and, there are some specific though rather high individual donation limits. In addition, there are spending limits determined by the size of the electorate for the office sought⁹⁷ (small consolations). There is public funding to the parties, including mandated media access. This overview is courtesy, once again, of II-PFT.

Corporate donations to the parties is the name of the game -- the leading party gets most of the bets, and then the public funding adds to the lead.⁹⁸ This makes IEP all the more entrenched.

It's so similar to many nations: it's as if the limits and regulations in the election laws only purpose are so it can be said, "There are laws". No matter if they, in effect, are of no consequence?

Japanese women have only 10.1% of the seats in the lower house; ranking a low 160th among nations.

EUROPE: Ukraine, Italy, Germany, France, UK, Norway

Ukraine; population 44 million

We just saw this tragicomedy. The names are different but the plot is the same. This time it's Paul Manafort and Viktor Yanukovich who are the bad actors drawn to the bonfire of campaign cash. You may be a little more familiar with these names than with those in the Malaysian 1MDP imbroglio, because of the Mueller investigation. But the similarities are striking.

II-PFT reveals that Ukrainian campaign finance laws were conducive to corruption when Viktor Yanukovich (VY) first hired Paul Manafort (PM) in 2007 – but maybe not quite as fertile as the environment provided by US laws when PM assumed the role of campaign manager for Trump in the summer of '16.

In the now infamous "black-ledger" recovered by the National Anti-Corruption Bureau of Ukraine from the safe in the former headquarters of the VY's political party (Party of Regions) shows that PM received \$12.7 million in cash payments from 2007 through 2012. "It is a very vivid example of how political parties are financed in Ukraine", commented Daria Kaleniuk,

⁹⁷ Sayuri Umeda, Foreign Law Specialist, LOC Legal Report, March 2016, Washington D.C.

⁹⁸ Masayuki Yuda, *How does Japan fund election campaigns?* Nikkei Asian Review, October 11 2017,

executive director of a citizens group, Anti-Corruption Action Center, in Kiev, “it represents the very dirty cash economy in the Ukraine.”⁹⁹

PM was not only hired to win elections for VY and *his* Party of Regions, but he was also at the center of various “deals” that enriched VY and his circle. PM busily set up off-shore shell companies to launder the cash. Several deals involved Russian oligarch, and one of the closest associates of Vlad Putin, Oleg Deripaska.¹⁰⁰ VY was afflicted by a classic case of hubris, lavish personal expenditures and certainly his biggest mistake: deciding against deeper ties with the EU (overwhelmingly popular with the people and business interests in Ukraine) in deference to – or pay-back to Putin (as the public viewed it). This led to the popular uprising in Ukraine which all but tarred and feathered VY before he fled to the arms of his benefactor Vlad Putin in 2014. VY is still in Russia as of June 2018.

Earlier in his career, PM had been hired to advise Philippine autocrat, Ferdinand Marcos, shortly before he was toppled. Pattern? Perhaps the Trump team hadn’t vetted PM too well before he was allowed to “volunteer” his services to manage the Trump campaign. Pattern?

Now, PM sits in jail found guilty of most of the felony charges against him as he faces sentencing.

In a May 4, 2018 article in the New York Times it was reported that a Ukrainian investigation into the misdeeds of VY and *his* Party of Regions have also spawned four separate investigations into PM’s activities while he was working for VY. In early April of 2018, those investigations of PM were put on hold by Serhiy Horbatiuk, the chief Ukrainian prosecutor in charge of the case. In January 2018 Horbatiuk had officially written Mueller to share information he had gathered. Of particular interest to Mueller and his investigation was a potential witness, Konstantin Kilimnik (KK), who was PM’s office manager while in Kiev. It is believed that KK was simultaneously working for a Russian intelligence agency – that he was, and is, a spy for the Kremlin. PM is known to have had several meetings with his old bud, KK in 2016 while he was Trump’s campaign manager. I would have included a photo of the shadowy character, KK, but the few that do exist do not appear to be of the same person. Russian intelligence erasures?

Meanwhile, there was an imminent sale of advanced anti-tank *Javelin* missiles and launching systems from the US to Ukraine in the works and Ukrainian officials were concerned that the ongoing investigations of his former campaign manager might anger Trump, who might then cancel delivery of the weapons. KK was allowed to leave Ukraine for Russia – now out of reach for Mueller and his investigation.¹⁰¹ The Javelin missiles have been delivered. Quid pro quo?

Why did Paul Manafort, Elliott Broidy and Michael Cohen choose the field of campaign finance? What made Malaysia, Ukraine and the US such attractive places to set up shop? What makes Donald Trump, Najib Razak, Viktor Yanukovich and Ferdinand Marcos want or need the likes of Manafort, Broidy or Cohen? Would, or could either of these tragicomedies have written

⁹⁹ Andrew Kramer, Mike McIntire and Barry Meier, *Secret Ledger in Ukraine Lists Cash for Donald Trump’s Campaign Chief*, New York Times, August 14, 2016

¹⁰⁰ SAA

¹⁰¹ Andrew E. Kramer, *Ukraine, Seeking U.S. Missiles, Halted Cooperation with Mueller Investigation*, New York Times, May 2, 2018

themselves without the glittering pot of campaign cash to incite this corrupt culture, with all its attendant greed and immorality?

Ukrainian women hold 12.3% of the seats in single house of parliament, tied with Sierra Leone in 144/145th place among nations.

Italy; population 59.3 million

II-PFT shows that Italy regulates both campaign contributions and spending by law. The government did, but no longer provides direct public funding for parties or candidates but it does make free and equal media access available for the parties provided that a given party has nominated candidates for at least 25% seats. In a way, this seems fairer than funding that is apportioned by the number of seats held or votes cast in the previous election. In Italy, it's free and equal media access for those parties making an earnest effort to participate in elections. As we have seen time and again, campaign finance laws on the books and practice on the ground can be entirely different. Italy's schism in this regard is as deep and wide as anywhere on earth.

Italy has long been plagued by endemic corruption. According to a 2010 Transparency International survey, Italians overwhelmingly identified the political parties as the most corrupt institutions in their country. This led the parliament in 2014 to phase out the system of public funding of the political parties by 2017, because it was seen as a waste of taxpayers' money by breeding corruption. This is the opposite of the commonly held view around the world that public funding is an anti-dote to political corruption.

The private funding of the parties has not quelled the distrust of party politics either, if the most recent parliamentary elections on March 4, 2018 are any indicator. The Five Star Movement Party, whose platform is all-anti-corruption-all-the-time, was the leading vote-getter with nearly a third of the votes.

This shows, again, that neither private funding, nor an overlay of public funding on top of a corrupt system is hardly a cure, any more than painting over a rotten widow-sill is a fix.

35.7% in the lower house of Italy's parliament are women; 29th out of 193 nations.

Germany; population 82.3 million

German candidates can't legally receive contributions or even *touch* money. "Nicht einmal Kleingeld? – nein -- *kein* Geld!" Translation: "Not even small change? – no – *no* money!" (but it rhymes in German).

German parties, however, can receive and spend in unlimited amounts, as long as *single* contributions are duly reported to the Bundestag (parliament). But, because there is a robust

public funding for party activities including free media access this absence of limits hasn't been an issue.¹⁰² Until recently, that is.

To be fair to the Germans, the memory of the Money that made Hitler possible had at least inspired a well-intended attempt to limit and regulate Money in their elections. But now, almost three-quarters of a century after Adolph, in his Berlin bunker, bit down on *his* cyanide capsule (if indeed he practiced the preferred passing of his cowardly fellow evil-doers), for most of today's corporate deciders/political contributors, Adolph is but a ghastly apparition.

In a Deutsche Welle (DW) exclusive expose' it was revealed how today's corporate deciders systematically cheat those old well-intended regulations.¹⁰³ You see, there is a requirement that only donations over 10,000 Euros need to be reported. So, sidestepping that rule is easy – just make your big influential contributions in many small contributions of 9,999 Euros each. The cleverest corporate deciders sprinkle these smaller amounts around to the many parts of the party of their choice i.e. national offices, state offices, municipal offices, even youth outreach programs. And the party of the deciders' choice happens to be, overwhelmingly, Angela Merkel's pro-business Christian Demokratische Union (CDU) and *her* go-to coalition party, Freie Demokratische Partei (FDP), according to the DW investigation.

Here is an illustration: it was revealed through other investigations, published by the national public radio regional affiliate, SWR (something on the order of MPR), and by Berlin's equivalent to the Washington Post, now called *taz*, in late May of 2018¹⁰⁴. The scheme was one that might even make the NRA blush. Germany's most notorious gun manufacturer, Heckler & Koch (H&K) (no relation to the world's leading "speech purchasers", brothers, Charles and David Koch) made political contributions below the radar of reporting requirements as described above (under 10,000 Euro per purchase of, what – *speech units*(?) aka, party campaign cash) to the CDU and FDP, while in the process of trying to get approval for a large assault rifle shipment to Mexico.

Taz, reported that in e-mails it obtained from the former CEO of H&K, Peter Beyerle, to his senior management just before the checks were cut to CDU and FDP, that since it was looking like the sale of assault rifles to Mexico could be in jeopardy of not being approved, it would be worth exploring the "political route". Beyerle, and six other H&K top officials are on trial, at this writing, for having made those same shipments illegally, because the government approval was in fact not garnered and, H&K, undeterred, went ahead with the deal anyhow. Did that make the contributions by H&K a bad bet, a "quid no go"?

The tandem investigation by Sudwestdeutsche Rundfunk (SWR) showed that one of these H&K contributions went to the district office of the CDU, that Volker Kauder represents in the Bundestag (parliament). Kauder held no position in either of the two committees with oversight to authorize the arms deal, but Angela Merkel did, and she voted in favor of the allowing the arms deal. Volker Kauder was then, and is still, considered to be Merkel's right -hand man.

¹⁰² Edith Palmer, Senior Foreign Law Specialist, Legal Reports, LOC, May 2009, Washington D.C.

¹⁰³ Gianna-Carina Grun and Ben Knight, *DW Exclusive: How German companies donate secret money to political parties*, Deutsche Welle, 9/22/2017, Berlin

¹⁰⁴ Ben Knight, *Angela Merkel's party accused of taking bribes from German gunmaker H&K*, DW 5/23/2018, Berlin

The allegations that these party cash contributions actually amounted to attempted bribery is not on trial. It is merely a dead-on timely illustration of how the system is gamed. Having lived there, albeit many years ago, I had this impression that this level of corruption would never be possible again in Germany, especially considering the “nie wieder” (never again) lessons learned from Hitler and the willful backing of his regime by Money for the profits that could be made, regardless of the evil it funded.

And somewhat eerily for me, is that it just happens to be happening in real time, as I am looking for items to share with you in this survey. What does this mean (if anything) that these real time coincidences keep popping up –remember the Odebrecht octopus strangling of South America? The supposedly serene Senegal’s Sall-out? The Malaysian 1MDB mess? Just the day before yesterday I discovered for the first time about the arms deal with the Ukraine and the suspicious timing of the release of one Kremlin spy, Konstantin Klilimnik (KK) two months ago. Then, yesterday, various news sources reported that Robert Mueller had also just indicted KK while further expanding the charges against PM to go beyond witness tampering to include obstruction of justice. Sorry, if it’s a bit overwhelming. But, it’s been my historical observation that when coincidences pile-up like this, it means a quantum change is about to happen. In the words of one sage sports commentator, “I could be wrong – but I doubt it.”¹⁰⁵

Germany ranks 47th among nations with 30.7% of the seats in the lower house of its parliament held by women.

France; population 65.2 million

The II-PFT reveals that France, as of 2013, outright bans corporate and trade union contributions to parties and candidates. Only French citizens may contribute to parties and candidates with a rather low annual individual contribution cap of 7,500 Euros to parties and, 4,600 to candidates. In other words, no citizen may contribute more than the combined total of 12,100 Euros annually. Public funding and free media access are available to the parties and proportional to the votes received (typical IEP).

The potential for problems are: 1) there are no limits on party spending, and 2) candidates may “borrow” money from *any* source.¹⁰⁶ This is especially problematic when the French state then reimburses candidates for half of their campaign costs. (Can you hear LBJ’s sardonic “more loophole than law” comment echoing again?)

Look across the Rhine and see what the lack of party spending limits can lead to. It’s great that unlike Germany, France at least limits donations, but without concurrent limits on spending what have they really accomplished? One unintended outcome is that makes the Money chase all the more frenetic. It could well be that is why the drafters of the 2013 campaign finance law created the odd loan loophole; to alleviate some of the up-front Money pressures, which, quite naturally, has resulted in another set of fraught consequences.

¹⁰⁵ Charles Barkley, former NBA hall-of-famer (and future Governor of Alabama?)

¹⁰⁶ Andreas Becker, *French elections: Who finances the candidates?* DW, May 5, 2017, Berlin

Of course, the loan loophole has already been exploited. In the 2017 presidential elections both of the two finalists, Macron and Le Pen took out what have turned out to be questionable loans. Macron, an investment banker himself, grabbed a private loan for 8 million Euros from a French Bank, to finance the first round of elections, without disclosing either the bank or the terms.¹⁰⁷ Very opaque.

Before I go onto describing the Le Pen/Russian loan connection, I have to tell you that almost every nation prohibits campaign donations from foreign sources, just as almost every nation also expressly prohibits vote buying. I haven't bothered to include these facts because it seems all too obvious, unless it really stands out: like the example the former French colony of Senegal prohibiting foreign donations to parties but *not* to the candidates. Or the trial former French President Sarkozy will face over charges stemming from the allegations he received several suitcases stuffed with a total of 50 million Euros in cash from a wealthy French-Lebanese businessman who told investigators he was essentially acting as Muammar Gaddafi's cash courier to "support" Sarkozy's 2007 successful election bid for the Presidency.¹⁰⁸ You may recall that shortly after he took office, Sarkozy rolled out the red carpet for Gaddafi's official (and strange) state visit to Paris. Gaddafi was even allowed to pitch a bedouin styled tent on the lawn at the Louvre where he slept during the visit. It may turn out that Sarkozy was guilty of no crimes (other than bad taste.) But the invitation was very controversial, to say the least. In the same vein, remember how odd it seemed that the Malaysian Prime Minister, Najib Razak, would rate an invitation to the White House just nine-months after Trump took office?

To Russia, with Marine Le Pen: four times, to visit her good old Vlad Putin in the Kremlin in recent years. No, she didn't leave with suitcases full of cash. She already got the money in the form of a 9 million Euro loan from an obscure Russian bank in 2014. That bank has since closed and an investigation by the Financial Times in 2017 found that the loan was sold to one Kontin car rental company whose address is an apartment in a drab building on the outskirts of Moscow. There were 877 other companies registered with that apartment as their address. Neighbors in the building told the Financial Times correspondent that the apartment was rented by a young couple, who live there with their young daughter. In 2017, Le Pen and *her* party, Front Nationale (FN), took out another unsecured 3 million Euro loan, from an even more obscure Russian bank. FN has said it is paying interest on the 2014 loan.¹⁰⁹ So much for French campaign finance law on prohibiting foreign Money from influencing French elections. It might even be almost as ineffectual as US campaign finance law is at preventing foreign Money from entering the arena of election campaigns.

France stands in 16th place in the world with its lower house of parliament 39% women.

United Kingdom; population 66.6 million

Cross the English Channel, and like their steering wheel – campaign finance law is the opposite of French law in the UK. The parliament has pretended to be addressing the Money monkey by

¹⁰⁷ SAA

¹⁰⁸ Angelique Chrisafis, *Nikolas Sarkozy in police custody over Gaddafi allegations*, The Guardian, March 20, 2018, London

¹⁰⁹ Max Seddon in Moscow and Michel Stothard in Paris, *Putin awaits return on Le Pen investment*, The Financial Times, May 4 2017, London

imposing tough spending limits, yet allowing donations to flow from any source, largely unfettered. This can and does create campaign cash bubbles, which in turn, have lately surfaced in very insidious, personal data harvesting -- all the dicing and slicing and micro-targeting of voting groups has resulted lots of billable-hour “contracting” expenses. But, because the Brits, with best of intentions, allow zero paid campaign adverts (Yes!), and because the parties’ and candidates’ expense ledgers are carefully scrutinized, cheating is tough. But Brits, being Brits, and if nothing else, persistent, have found ways to cheat, nonetheless. So, for instance, the Tories have invented *BattleBusses* (self-named), that hurtle out of London on *RoadTrips* (also self-named) into the countryside, rich with conservative, yet not so active, voters to get to the polls in the UK’s shortened (4 – 7 week) campaigns. These *RoadTrips* feature free overnights block-booked in hotels, with meals included, for the door-knockers, at party expense (mostly not reported).¹¹⁰ Prior to the 2015 national election the Conservative Party sent these volunteer door-knockers in proverbial swarms to locations, targeted by the aforementioned personal data mining, besieging unsuspecting inhabitants in smaller cities and towns. Then, after numerous complaints about these forays, the National Electoral Commission sent police out all over the island nation in proverbial swarms to conduct investigations into the Conservative Party’s *BattleBusses* on their *RoadTrips* and their trail of expenses which were allegedly unreported, in direct violation of campaign finance laws. And now, prosecutions are underway.

Transparency International, UK has conducted surveys that show that 59% of UK citizens believe that the UK government is ‘entirely’ or ‘to a large extent’ run by a few big entities acting in their own interests. 67% simply say that UK political parties are corrupt.¹¹¹ Even in the *Financial Times*, the UK equivalent of the *Wall Street Journal*, in a 2015 editorial it was asserted that the only path to good governance was to prohibit private political contributions entirely and that British election campaigns be solely publicly funded:

“If the political class at Westminster is to have any chance of winning back public trust, it needs to end the suspicion that the culture of political donations is corruptible. The only way to do that is a system of taxpayer funding...”¹¹²

But, try to think of it this way. Though it is far from a perfect system as we have seen, that is, in fact, roundly distrusted and railed against, at least the British have no political “adverts”. Instead the BBC broadcasts debates and press conferences. There is a shortened campaign period, lasting only 4 to 7 weeks. The amounts spent by the parties (if adhered to) are limited. And there is IEP public funding for the parties. It’s far less obnoxious than how we voters in the US allow ourselves to be tormented by our obscenely long, exhausting, yet uninformative and very expensive political campaigns.

The United Kingdom has 32% of its seats in the House of Commons held by women, 41st in the world.

¹¹⁰ Ed Howker and Guy Basnet, *The long read: The story of the Tory Election Scandal*, The Guardian, March 23, 2017, London

¹¹¹ Robert Barrington, *Corruption and British politics: What we can and can’t learn from the Osborne case*. Transparency International UK, April 4 2017, London

¹¹² George Tyler, *US Campaign Finance: Reining in America’s Oligarchs* (an adaptation of the book with the same title by the author) The Globalist, February 8, 2018

Norway; population 5.36 million

I thought I was saving the best for last. By all reports, it seemed that Nordic rectitude would save the day and give us an example to follow. But not so, at least not in the rules and regulations of the laws on the books as documented by the II-PFT. Norway turns out to be quite lax: not only do they allow foreign Money to be donated to parties *and candidates* without limits, they have no limits on corporate or personal donations and no limits on party or candidate spending either. They do, at least, require reporting of all income and spending, which is made public.

What Norwegians rely on is the world's most generous public funding of party activities and, like the UK, a ban on all privately paid television and radio advertising. According to the report generated by the Organization for Security and Cooperation in Europe (OSCE) of its independent audit of the September 11, 2017 parliamentary elections in Norway, 74.4% of all party campaign expenditures were funded by the Norwegian taxpayers.¹¹³ Although the report noted a high degree of public approval for the system, the OSCE team also noted in the report that, "...in recent years there has been a sharp increase in the amount of private donations." This had, among some in the team, "...raised concerns about potential undue influence of large donors on politics."¹¹⁴

This scheme: generous public funding (albeit typical IEP) combined with a ban on paid media advertising is practiced with similar positive outcomes in neighboring Sweden and Denmark. But are the Scandinavians playing with fire? What prevents Money from muscling its way in, as it has everywhere else? Is it just a cultural antipathy to corruption? Or is the sharp increase in private donations as noted above in the Norwegian election report the tip of the iceberg -- just the beginning? Remember the federal matching funds for the US presidential campaigns you could approve of by checking the quaint little box on your federal income tax form that's now obsolete?

Norway has 41.4% women members in its single house of parliament, placing it in 13th place among all nations. Gender equality quotas of 40% – 50% of candidates within the 4 major parties are mandated by internal party bylaws, but not required by Norwegian law.¹¹⁵

CONCLUSION

Financing public elections with private Money, even if its combined with public funding, is fundamentally flawed and fails every-time, in varying degrees, distressingly often in colossally corrupt scandals. People of all nations are witnesses of the corrupting effects of Money, so it's no wonder every single nation surveyed has made laws that attempt to address this universal problem. So, it's very hard to believe that the obvious loopholes which have been woven into

¹¹³ OSCE/ODIHR Election Expert Team Report, *Norway Parliamentary Elections, September 11, 2017*, OSCE/ODIHR December 4, 2017, Warsaw

¹¹⁴ SAA

¹¹⁵ Gender quotas database, International IDEA, Stockholm, March 2018

the campaign finance laws of every nation described in this survey (Tunisia stands out as the only exception) weren't intentionally implanted to advantage the authors of the legislation. As is often the case, an irony plays out: the advantage the loophole was supposed to create, later gets picked up by the opposition and turned against its authors. And yet they persist. It's as if a cynical calculation is made: "if we just bide our time until our party is in the majority (or majority coalition) again, then we'll be able to use that advantage to our benefit once again."

But let's assume that all the loopholes were all unintentional, and that all campaign finance laws were honest attempts to achieve good governance. Then there are four traps that all of the best intended laws fall into.

As we have shown, many nations have public funding for the parties, usually along with free and equal media access, often with public broadcast programming of debates and other campaign events. We have also shown that people in nations without such public funding wish they did. It seems almost essential, if you want to reduce the negative consequences of Money on elections and public trust.

The first trap is in how those funds get disbursed. The go to formula is that the funding is based on votes received by the party in the previous election, or on the number of seats held by the party in the parliament. It seems fair enough. But instead, it gives the most popular parties an unfair advantage. The more money they get, the more likely they are to get more votes in the next election, which gets them more money. We have termed it Institutionalized Establishment Perpetuation (IEP). If you gave all parties equal funding, then minority parties would get the advantage that they may not deserve, or the public may not want. Is that why they got fewer votes in the first place? Or is it because they received less public funding to get their message out? There is no way to make this formula for public funding fair; that's the trap.

The second trap is an unavoidable feature of party politics. As long as a government is reliant on political parties as an arbiter for its citizens, as is the case in all parliamentary democracies, the trap is in how to govern or regulate the activities within the parties. Each party has its own methods for making the rules that it uses to govern itself. How can a government assure that those inner-party methods and rules are fair and democratic? And what about the different ways each party chooses its candidates? These hugely consequential machinations happen largely without effective public scrutiny or oversight. How democratic is that?

The worst-case scenario is when one party becomes too dominant. As you have seen, this often comes as sort of a bad deal twofer; with one man and *his* party ascending to dominance together. Soon term limits disappear. Then a cult of *his* personality ensues. Soon individual freedom and justice vanish. Repression rules. Democracy dies. Think Fidel Castro or Daniel Ortega; the revolutionaries become the dictators they overthrew. There are now a whole crew of wannabes, who don't even have the revolutionary creds, embodied by the likes of Duterte, Erdogan, Putin and Trump. It's frightening, but true -- there is no way, not in the US, nor in any other nation, to prevent a single party from becoming *the* party or that party from becoming *his* party.

The third trap: Money attracts bad actors to politics. The temptation of all that Money, and lure of personal enrichment creates a culture of its own. It is an exclusive little, but hugely corrupt club, with its many blandishments, like unseemly displays of wealth and, of course, prostitution. The club doesn't respect borders any more than laws; it's Money that matters. And, membership

in the club isn't just for those who get elected, or who run for office. The operatives and lobbyists who collect and carry the Money – like Jho Low, Elliott Broidy, Paul Manafort, and Michael Cohen don't aspire to hold office. They much prefer to hold the Money.

The fourth trap is the bureaucratic burden placed on a government for oversight of ongoing party and campaign expenses. The task of reporting party income and expenses is a real burden on the parties. But auditing all those reports places an even greater burden on the government institutions responsible. The size and cost of these oversight activities is just part of it. The timing of the reporting, the parsing, accounting and categorization of expenses makes manipulation of the reporting all too tempting. Abuses occur even in nations with seemingly tight regulations.

One of the toughest pieces of the bureaucratic trap is enforcement of the laws. The strictest limits and regulations mean nothing if the laws don't provide for rigorous enforcement. That means prosecutions with convictions which mandate imprisonment. The bureaucratic trap with all its moving parts and requisite constant vigilance is very costly, which ultimately places the heaviest burden on the backs of taxpayers.

Speaking of costs: How can we begin to calculate all of the tolls taken on all our souls by the corruption that is birthed by **our** *allowing* Money to buy **our** elections? We don't have to allow it. That means you and I won't allow it. All it takes is *your* two petitions delivered to *your* two state representatives... at **no** cost.

Chapter 7

THE SOLUTION

Our 28th Amendment to Our Constitution



We the People

of each Congressional District

ELECT



A Five Member District Board

to direct and oversee:

District Office for Voter Information

a staff of 22 charged with 6 functions:



1. Randomly select 2,000 citizens to interview 240 prospective candidates.

2. Select from all who apply: 10 prospective candidates for each seat to be interviewed.

People Not Parties ↓ Choose Candidates

April PEER-GROUP INTERVIEWS May



3. Coordinate and manage 11,250 separate peer-group interviews. Each prospective candidate faces 50 - 200 peer-groups of 3 citizens. Sessions of four 30-minute interviews scheduled evenings & Saturdays. Groups remain together for 1 session, group makeup changes each session. Every interviewer participates in 20 interviews in 5 sessions. After every interview each candidate is rated 1 to 10 by each interviewer, privately. The 4 highest rated overall participate in the primary Election Forum.



June PRIMARY ELECTION FORUM July

4. Conduct and run the primary Election Forum. Four candidates for each seat are **required** to participate in **town hall meetings • debates • press conferences • individual media interviews • addresses • speeches**. Arrange for candidates to **travel together** to all events.

5. Manage the Election Forum website where all candidates and citizens will have free, open and equal access. Arrange recording, live streaming and broadcast of all public events in multiple formats.

NON-PARTISAN PRIMARY ELECTION



Mid August GENERAL ELECTION FORUM Sept. & Oct.

6. Conduct and run the general Election Forum. Two candidates (2 receiving the most votes in the primary election, or, if an incumbent seeks re-election, the incumbent and the candidate with the most votes in the primary) are **required** to participate in all Election Forum events as described above.

Candidates continue to travel together to all events.

GENERAL ELECTION



Our Duly Elected Representative



INTERVIEWS REQUIRED PER DISTRICT
11,250 Interviews Conducted by 2,000 Interviewers
 based on 2018 Minnesota ballot

Office	Interviews Required	Prospective Candidates	Number of Seats	Total Interviewers Required
Governor	250	10	1	750
US Senate	250	10	1	750
US House	1000	10	1	3,000
State Auditor	125	10	1	375
State Attorney General	125	10	1	375
State Secretary of State	125	10	1	375
District Board Voter Information	1,000	10	1	3,000
State House of Representatives	8,375	170	17	25,125
Totals	11,250	240	24	33,750*

* Since each interviewer participates in 20 interviews, each of 30 minutes duration, (in five 2-hour and 15-minute sessions) only 1688 citizens (2000 with alternates) need to be selected.

Though the proposed solution spelled out in these next pages is fairly well fleshed out and the product of some thought and effort, it is by no means meant to be taken by you as decided upon, or that your input isn't encouraged. This is a proposal – it's meant to be a starting point for discussion. It is only presented as a comprehensive solution to show it *is* possible and, to offer enough material for informed consideration. Your engagement is not only encouraged, it is necessary, as for any grass roots effort, for this proposal to move forward.

Let's go back to the first page of the book and examine each of the four main objectives that the proposed amendment promises.

What we propose is a way to:

1.) get money out of politics, completely:

Unless the Supreme Court were to overrule *Buckley* and *Citizens* (all but impossible for decades to come) the only way is for us to amend our Constitution. We have done it before. We can do it again.

completely, means the number must be zero, as in no private expenditures of any kind. As we have just shown in the previous section of the book, in the United States, indeed in every nation, people have come to understand that public election campaigns funded with private money is the gateway to poor governance and corruption. For over a century, every possible legislative remedy that has been tried all across the world has resulted in failure, from small to catastrophic proportions. That is because neither the ways to select candidates nor the means to inform the voting public were established any constitution of any nation. Parties determine the ways to select the candidates and, Money became the means to inform the electorate. Once Money has a grip on political power, abuses *will* occur. It leads to oligarchy, all-pervasive control of the government *and* the economy, single party authoritarian control and kleptocracy.

Zero is the cure. Zero is absolute. *Zero can't be cheated.*¹¹⁶ Zero is the brightest line. Zero kills corruption. Zero is the great equalizer. Zero is fair and free. Zero Money out and in comes true democracy.

2.) give ourselves all of the unbiased information we need in fair, free and open public Election and Legislative Forums that guarantee equal access to every citizen and candidate:

If we prohibit Money without providing an alternative means for informing the electorate, then we will have achieved nothing. Remember the Tillman Act of 1907 in the US, or the Brazilian Supreme Court decision of 2017, both of which banned corporate donations to election campaigns? If Zero is the only way, then informing voters has to be an entirely public effort and publicly funded. The concept of a public Election Forum for informing voters is the most advantageous alternative for the following reasons:

¹¹⁶ Robin L. Clark, "Zero can't be cheated." October, 2016

- 1.) It allows all information concerning public elections to be distributed fairly because it will be the exclusive venue from which all information is generated. Access can easily be made universally available and equal to everyone, citizens and candidates alike. Because it will be the single source for information in election campaigns, fake news/disinformation malign influence on our elections will disappear. There will be only one real universal source of verbatim recordings of all public proceedings.
- 2.) The Election Forum events will be uniform, fair, provide equal opportunity for every candidate to get their message out, yet mandatory for all candidates. This will allow the voting public to see each candidate side-by-side and on equal footing. True comparisons can be made on the content of the candidate's intellect and character, not on the content of their wallets.
- 3.) The events will be in depth, regularly scheduled, open to all, and available in multiple formats. They will fulfill our need as citizens to be informed voters. They will be informative, not negative.

The proposed Legislative Forum is necessary for two notable reasons beyond the obvious need to provide all citizens equal opportunity for access to, and engagement in the legislative process:

1. If Money is not prohibited from influencing legislation as well as from influencing elections, then Money would slither right back in, by way of lobbying, to control our political system. Remember the "soft money" and "issue advocacy" loopholes through which Money was able to circumvent our last unsuccessful attempts at campaign finance reform laws described in our *Reform Problem* chapter? Money would simply shift to lobbying for legislation at an even more frenetic level. But, if we prohibit paid advocacy for legislation without providing any public alternative for advocates, it would again create a vacuum which would advantage the privileged and connected. It would also encourage circumvention through such means surreptitious sponsorship of advocates.
2. The political parties would likely maintain at least a large part of their undue control over the legislative process by default, unless a new clearly defined public pathway for citizens to connect with their representatives by way of the Legislative Forum is established.

3.) make choosing our candidates entirely nonpartisan and as open, fair and democratic as we possibly can:

If we were to successfully ban Money from our elections and replace it with the public Election and Legislative Forums to inform voters, but left our Too Big Party system unchanged to continue its undue and *constitutionally unauthorized*, yet utter dominance of our legislative process by way of its complete control over candidate selection, we might not even be able to claim partial success in fixing our broken political system.

Why? Because even more power would devolve to the parties by default. They would be the sole surviving old guard institution – the only game in town. Candidates would reflexively turn to a party for endorsement and support, which in turn would make those candidates elected even more indebted and beholden to the party line.

As harmful and undemocratic as the Too Big party system has become, it isn't even worth entertaining the thought of reforming the system with a piecemeal approach a la' campaign finance reform by regulating inner party rules. Previous chapters have made that abundantly clear. Nor is a ban feasible. That would violate the First Amendment right of the people to peaceably assemble. It would also be an open invitation to authoritarian control if not totalitarianism.

In the *Party Problem* and *Global Problem* chapters we described how the parties' total control over candidate selection is the main source of power to rule over legislation. Which is the reason making candidate selection entirely nonpartisan is the best way to end their constitutionally unauthorized domination of our legislative process.

Could nonpartisan primaries alone be enough? With the goal of making legislating less partisan and divisive, California, Nebraska, and Washington have adopted nonpartisan blanket primary elections (now often referred to as "jungle primaries"). Candidates are still party members and still seek party support and endorsements. The top two vote-getters, regardless of party affiliation, appear on the ballot in the general election. While the primary ballots are certainly more populated, it is far from clear if appreciable changes in the conduct of the legislative process has improved at all. There are a plethora of studies and opinions on the subject. Our take-away is that nonpartisan primaries alone are not sufficient to make any meaningful difference, much less the kind of difference we need to improve our democracy.

That is why the peer-group interview system was invented. For starters, it was the only way to make candidate selection entirely nonpartisan. Then, as its basic design took shape, advantages appeared with each tweak, making it more and more democratic. Here are some examples:

1. The interviewers are randomly chosen from the citizenry making the selection process as fair and democratic as possible, since party identity has no bearing on whom or how interviewers are chosen.
2. A large number of citizen interviewers participate. This makes the cross-section of citizens as evenly representational of the population as possible. As with any study, the larger the sample size the more reliable it is, as it filters for aberrations, and extremes. This will make the peer group interviews favor consensus views, not opinions from fringes.
3. The large number of 30-minute-long, face-to-face conversations gives the prospective candidates the best opportunity possible to get to know their electorate in depth.
4. A state study we conducted shows the peer-group interview system we propose would involve almost 4 times more individuals, who interview and choose the prospective candidates who then appear on the nonpartisan primary ballot, than the traditional party system involves delegates for

endorsing candidates. What's more, each of the peer-group interviewers would have talked at length with each of the prospective candidates they were assigned to interview and rate. Whereas, very few of the 4 times fewer delegates at the traditional party endorsement conventions ever get the chance to speak to with the prospective candidates they are asked to vote for to receive their party's endorsement. (This quantitative study appears in our final chapter, *Questions, Qualms, Concerns and Objections*)

4.) give ourselves the gift to govern ourselves with integrity, dignity and pride, which will keep on giving and giving in virtuous ripples:

This is the prize. The hope. The motivation. We want to be in control of our own destiny. We need the feeling of accomplishment that can only be derived from having done it for ourselves. To feel the pride in ourselves by being part of something truly transformative and momentous is what we crave. We want to live in a nation that leads by example. Fixing our broken political system while setting a new standard for democracy would be a fitting achievement for the nation gave the world its first modern democracy. It's our time to shine again. We need it. The world needs it.

What we propose here is a rather detailed plan for structural changes in the way we conduct our elections. Yes, getting money out of our elections and the parties out of our way so we can legislate reasonably and rationally requires close attention to the details of the design. But of equal, if not greater importance, are those ingredients which must be part of this effort like trust and faith in ourselves. That begins with each of us, as individuals, believing in ourselves. You will see in our chapter, *It's Up to You: Handbook for action*, how one individual, Elliot Wilcox, described what motivated him to petition his State Senator: "Think big – act small."

In other words, it takes an initial individual act to implement this plan to amend our Constitution – like any viable movement it has to start with grassroots. Elliot had to believe in himself first. And, that is what it will take: one person and one petition at a time.

With this simple, *free*, yet powerful action you will set into motion a chain of events which has the potential to change the world for the better like nothing else. Simply make 2 copies of the following petition and proposed amendment. Fill out your petitions, sign them and attach the copies of the amendment and mail, or better, hand them to your two representatives in your state legislature (in most states a Senator and a Member of the House of Representatives).

Meeting with your representatives will, of course, have the greatest impact. It will allow you to explain why you want your representatives to act as your petition calls for. Ideally, this will be a congenial conversation between neighbors. By design, you and your representatives in your state legislature reside relatively close by. You are indeed, neighbors. With the power to petition your government guaranteed by our First Amendment, you wield a Constitutional tool that gives your voice a way to be heard and, that compels your neighbor/representative to receive and consider your petition.

You don't have to change your life, or become a political activist. You don't have to protest, march or, heaven forbid, attend a rally (they're so Nuremberg). Nor will you be asked to donate a dime. That would be antithetical to the cause and hypocritical, wouldn't it?

The purpose of this petition is to introduce and outline our proposed 28th Amendment. Unlike most of the Amendments to our Constitution, the one we propose is quite specific and proscriptive – on purpose. That is because its purpose is to complete Article. I. Section. 4. of our Constitution with election rules. The twin omissions of which by now hopefully you agree, is the source of most of problems we face.

For a more thorough discussion of the history of the Petition Clause, and its use in this particular proposal please refer to Chapter 10: *The Petition Clause*.

PETITION

I, _____ in accordance with my First Amendment guarantee, petition you, _____, my representative in the _____ legislature to introduce, support and VOTE for a resolution by the _____ legislature to apply to the United States Congress, pursuant to Article Five of our Constitution, to call a constitutional convention to discuss proposing an amendment to our Constitution exclusively to*:

1. Prohibit all private campaign expenditures in all state and federal elections.
2. Establish free, fair and open Election and Legislative Forums for all election- and legislation-related communication for all citizens, candidates, advocates and representatives, with universal, convenient, impartial, equal treatment and rules.
3. Select candidates via non-partisan peer-group interviews.
4. Conduct non-partisan open primaries with uniform election schedules and rules.
5. Require that all candidates participate in public campaign events conducted by the Election Forum.
6. Authorize citizens to elect a board of fellow citizens in every congressional district to oversee the Forums and interviews.
7. Authorize municipal, county, township and all other local government bodies to enact like measures to apply in their jurisdictions.
8. Authorize Congress to implement this amendment* upon its ratification with appropriate legislation.

With this application, the State of _____, calls on Congress to bring the Convention to order to propose, discuss, deliberate and vote upon these measures with a voting body of three representatives, state residents who have never served in elected office, sent by each of the first 34 state legislatures also applying to Congress.

Your Signature: _____

Address: _____

* Full text of the proposed amendment, in eight sections, is attached.

You may find reading the amendment a bit difficult because it is so densely packed. Don't worry though, because directly following it we have provided in our *Guidelines for Appropriate Legislation*, an outline of the legislation that gives our proposed amendment its structure. And, following that we give you further explanation for the reasoning behind the amendment and appropriate legislation which will support and enforce it in, *Guidelines for Appropriate Legislation, Explained: Justifications, Considerations and Comments*. This will give you play-by-play commentary on the components of the legislation that will facilitate the amendment.

PROPOSED 28th AMENDMENT TO THE CONSTITUTION

Section 1. Any expenditure of private funds or in-kind services to sponsor or advocate for or against a candidate or ballot item in a state or federal election, to influence a state or federal election, or to influence state or federal legislation shall be prohibited.

Section 2. A fair, free, and open Election Forum shall provide candidates and advocates a means of communicating with the public for state and federal elections. A separate Legislative Forum for public communication pertaining to state and federal legislation shall also be provided. Both forums shall be administered by federal civil servants and overseen by a District Office for Voter Information Board (hereinafter; the District Board) comprising five members elected by the people in each of the United States Congressional Districts. The first elected District Board members (whose election shall be determined in a special national election described in section 7., below) shall be elected to single terms of two, four and six years. Every District Board member elected thereafter shall serve a single six-year term, in staggered two-year intervals.

Section 3. The District Boards shall also oversee the random selection of citizens who will form into groups of three peers to evaluate prospective candidates for the following offices: two-hundred separate interviews for the United States Senate and Governor of each state; one hundred separate interviews for the United States House of Representatives, state elected constitutional offices and District Board; seventy-five interviews for the senate (or upper house) in each state; and fifty for the house of representatives (or lower house) in each state. Prospective candidates shall apply to the District Boards with a resume', agree to background screening and submit a 1000 word "Reasons I seek this office" written statement that will be forwarded to the interviewers for review prior to the interviews. The District Boards shall limit the number of prospective candidates interviewed to ten of the most qualified for each office, based on review of their applications. Each District Board in each state shall appoint one member to serve concurrently on the State Review Panel to likewise review all applicants for statewide offices and, limit their number to ten of the most qualified for subsequent peer group interviews.

The District Boards of each state shall vote to select one member from each state to a separate Office for Voter Information National Board (hereinafter; the National Board) to oversee the national presidential candidate selection convention and Election Forum for the presidential primary and general elections (described in Section 4 below). The National Board shall also be responsible for the formation of the Election and Legislative Forum websites.

Each randomly selected citizen interviewer shall participate in twenty interviews per election cycle. Every interview shall be 30 minutes in duration. After the completion of each interview the interviewers shall rate the prospective candidates for suitability for the office on a scale of one-to-

ten with a private ballot. The four prospective candidates for each office receiving the most favorable peer evaluations shall participate in a primary election. If no incumbent is seeking reelection, the two candidates receiving the most votes in the primary election shall proceed to the general election. If an incumbent is seeking reelection, the single candidate receiving the most votes in the primary election, and the incumbent, shall proceed to the general election. All candidates shall be required to participate in all Election Forum events and broadcasts: public meetings, debates, speeches, press conferences, and maintain an exclusive web page on the official Election Forum website.

Section 4. Each state shall hold a special election to choose from four persons who receive the most favorable evaluations resulting from two-hundred-fifty separate interviews held within the state, a candidate/delegate to attend the national presidential candidate selection convention. Each candidate/delegate shall address all convention attendees for fifteen minutes and participate in a forty-five-minute open discussion immediately following the address. Each candidate/delegate shall also participate in group discussions of five individuals for one-hour, such that every candidate/delegate shall meet every other in a discussion group.

After all discussions have been completed, every candidate/delegate shall choose three candidate/delegates, other than herself or himself, deemed best suited to become president and rate them on a scale of one-to-ten with a private ballot. The four individuals receiving the highest ratings shall participate in all election forum events culminating in the national presidential primary election. If no incumbent is seeking re-election the two candidates receiving the most votes will meet again in the general election. If an incumbent is seeking re-election, the candidate receiving the most votes in the primary shall meet the incumbent in the general election.

Section 5. Expenditures and other violations shall be reported to the District Board in the congressional district in which such violations are alleged to have occurred. The District Board shall have the power to recommend federal prosecution, with violations punishable by imprisonment for a term of not less than one nor more than ten years and a fine.

Section 6. Municipal, County, Township and all other local governments shall have the authority to enforce like measures of this amendment by appropriate legislation for public elections within their jurisdictions.

Section 7. The first elected District Boards subsequent to ratification of this amendment shall be formed by a special national election. The Secretaries of State in each State shall appoint and oversee a special election staff of fifty temporary workers who shall randomly select citizens to conduct the first peer group interviews of prospective candidates. One hundred separate interviews by four-person peer groups shall determine which ten most favorably evaluated prospective candidates (via the process described in Section 3 above) from an original body of no more than twenty of the most-qualified applicants (pre-screened by the interviewers) shall appear on the ballot in each congressional district. The five District Office Board candidates receiving the most votes in each district shall form each District Office for Voter Information by hiring full time staff, which shall be in place to provide the intended public services for all ensuing state and federal elections and legislative sessions.

Section 8. The Congress shall have the power to enforce this amendment with appropriate legislation.

The following is an outline or model for the legislation that will make our proposed amendment work in real time. It is not meant to be taken as unalterable. Its main purpose at this point is to further clarify the amendment in order to accommodate your ideas for improvements.

GUIDELINES FOR APPROPRIATE LEGISLATION

Candidate Rules (Excepting Candidates for President)

- I. Any person seeking state or federal elected office must comply with the following:
 - A. Apply for candidacy with full personal history disclosure and a written statement “Reasons why I seek this office” (limited to 1,000 words)
 - B. Participate in a peer interview process
 1. The Office for Voter Information District Boards (District Boards) [set out below] shall limit the number of prospective candidates interviewed to the 10 most-qualified, based on review of their applications. Each District Board within each state shall appoint one member to concurrently serve on a State Review Panel to review and limit applicants seeking statewide elected seats to 10 of the most qualified for subsequent participation in the group interview process.
 2. Peer groups of three citizens (interviewers) shall interview each prospective candidate. Each interviewer shall participate in 20 interviews. Each interview shall be of 30 minutes’ duration. The number of interviews shall be proportional to the size of the electorate for the office sought:
 - i. 200 for US Senate and Governor
 - ii. 100 for US House of Representatives, state constitutional elected offices and District Board (see Office for Voter Information below)
 - iii. 75 for State Upper House
 - iv. 50 for State Lower House (may be altered by District Board(s) if a state is unicameral.
 3. Each interviewer shall rate each prospective candidate at the conclusion of each interview, on a scale of 1 to 10, by secret ballot.
 4. The four candidates receiving the highest ratings shall participate in a primary election. An incumbent seeking re-election does not participate in the primary election.
- II. The Election Forum (set out below) shall be the exclusive venue for public/candidate communication regarding the election
- III. Candidates shall maintain pertinent information on the Election Forum web-site. Candidate participation in Election Forum events shall be mandatory. Events shall include debates, press conferences, public meetings and speeches.
- IV. If an incumbent seeks re-election, the candidate receiving the most votes in the primary, and the incumbent shall be placed on the ballot in the general election. If the incumbent does not seek re-election, the two candidates receiving the most votes in the primary shall be placed on the ballot for the general election.

- V. Incumbents seeking re-election must officially announce their intention before the candidate selection process begins. Mandatory participation in Election Forum events for incumbents commences after the primary and continues until the general election.

Presidential Candidate Rules

- I. Each state shall select a candidate who shall also be a delegate to the National Presidential Candidate Selection Convention [National Convention] by state wide election.
 - A. Prospective candidates shall
 - I. Make an application to the District Office with a full personal history disclosure and 1000-word written statement “Reasons I seek this office”
 - II. Successfully complete 250 group peer interviews in the state where the candidate resides
 - B. The four highest-rated candidates shall participate in a state-wide election. The candidate receiving the most votes shall represent her or his state as the candidate/delegate at the National Convention
- II. The fifty candidate/delegates shall attend the National Convention to select the four candidates for the primary election.
 - A. Each candidate/delegate shall make a 15-minute presentation to the convention, followed by a 45-minute open discussion. Additional one-hour discussions shall be organized in groups of five such that each candidate/delegate shall meet every other candidate/delegate. At the end of the discussions, each candidate/delegate will cast a private ballot, ranking the three top candidates, each rated on a scale of 1 to 10 (other than herself or himself). All convention discussions and meetings shall be televised, streamed live via the internet and recorded for rebroadcast in multiple formats.
 - B. The four candidates receiving the highest rating of the convention shall proceed to the primary election and be granted all Election Forum privileges and shall adhere to Forum requirements, which are the same for all other offices.
- III. If a president seeks re-election, the candidate receiving the most votes in the primary shall be on the ballot opposing the president in the general election. If a president is not seeking re-election, the two candidates receiving the most votes in the primary shall proceed to the general election. All candidates shall choose her or his vice-president to appear on the general election ballot after being elected by the primary vote.

Office for Voter Information: Election and Legislative Forums

- I. Each United States Congressional District shall have an Office for Voter Information (District Office).
- II. Fair, free and open access to all citizens and organizations to share information, advocate, and communicate regarding state and federal elections and legislation shall be the organizing principle and fundamental purpose that guides the activities of each District Office.
- III. Each District Office shall be overseen by a five-member, publicly elected board, (hereinafter referred to as District Board). The District Board shall have sole responsibility for reviewing and selecting prospective candidates for the peer interview

process, maintaining the Election Forum and the legislative Forum, and reviewing allegations of expenditure violations and recommending criminal investigations of reviewed allegations.

- IV. The first elected District Boards subsequent to ratification of this amendment shall be formed by a special national election.
 - A. The Secretaries of State in each State shall appoint and oversee a special election staff of fifty temporary workers who shall randomly select 150 citizens per Congressional District to conduct the first peer group interviews of prospective candidates for the District Boards.
 - B. Prospective District Board candidates' applications shall be reviewed and ranked by the interviewers and reduced to a short list of 20 for each district
 - C. One hundred separate interviews of each of the short-listed 20 prospective candidates shall be conducted by three-person groups of interviewers to select the ten candidates which shall appear on the ballot in each congressional district (via the process described in Candidate Rules Section I.B above).
 - D. The five District Office Board candidates receiving the most votes in each district shall form each District Office for Voter Information by hiring full time staff, which shall be in place to provide the intended public services for all ensuing state and federal elections and legislative sessions.
 - E. The first members of the board for each District Office for Voter Information shall be elected to single terms of two, four, and six years. Every member elected subsequently shall serve a single six-year term, staggered alternately in pairs and singly. The board election process shall be as described in (Candidate Rules).
- V. The District Boards shall be organized consistently, as follows:
 - A. Each position described hereinafter shall be filled by a federal civil servant, who shall answer to the elected Board in all matters pertaining to the District Office.
 - B. Each Office shall employ a peer interview coordinator, assisted by a data-base manager and six administrative assistants, whose task it shall be to oversee and manage the random selection of citizens to conduct all peer group interviews within the district, and schedule all interviews.
 - C. Each Office shall employ a webmaster, assisted by two administrators, to assure the proper functioning of the Election Forum website and the Legislative Forum website. Both websites shall be uniform in design, structure and operation for every Office in every congressional district, but be autonomously moderated by the webmaster and staff in each individual Office.
 - D. Each Office shall employ a communications director, assisted by two administrators, who shall oversee and manage all mailings, scheduling of Forum events; outreach programs in universities, colleges, schools and libraries; design and implement internships; and coordinate seminars to share experience and lessons learned with other District Offices.
 - E. Each Office shall employ a media director, assisted by two administrators to arrange all media contact: press releases, conferences, broadcasts, simulcasts, podcasts and recordings.
 - F. Each Office shall employ a logistics coordinator and four assistants to arrange travel for prospective candidates to interviews and Election Forum events, and to schedule events in schools and other public buildings.

- G. Each Office shall employ a separate director for the Legislative Forum and two assistants to implement its outreach to the community and legislative bodies through public events and to maintain and moderate the Legislative Forum website content.
 - H. Each Office shall employ an investigator and one assistant responsible for reviewing allegations of expenditure violations. Results of investigations shall be reported to the District Board on a regular basis.
 - I. Each Office shall employ special temporary staff of twenty individuals to support Office operations in the nine months prior to the first general election. Assessment of operations after the first election cycle by each District Office, and by national conference of representatives (one from each Office), shall result in recommendations to be passed on to Congress for improvements in carrying out the mandate of the 28th Amendment for future elections and legislative sessions.
- VI. The District Boards of each state shall vote to select one member from each state to a separate Office for Voter Information National Board [National Board] to oversee the National Convention and Election Forum for the presidential primary and general elections. The first National Board, subsequent to ratification of the amendment, shall serve terms in alphabetically ordered cohorts of 17, 17 and 16 members, serving terms of 2, 4 and six years respectively. Thereafter, each National Board member shall serve staggered single two-year terms. The National Board shall also be responsible for the formation and oversight of the Election and Legislative Forum websites.
- VII. An initial annual appropriation of four million two-hundred thousand dollars shall be made to each Office to carry out its mandates as described herein. An additional initial appropriation of nine-hundred thousand dollars shall be made for the employment of the additional staff necessary for nine months prior to the first general election.

Election and Legislative Forum Websites

- I. The Office for Voter Information National Board shall select, via open competition, a website contractor to design, construct and maintain two websites: "Election Forum.gov" and "Legislative Forum.gov."
- II. The Election Forum website must comply with the following requirements
 - A. Allow free, open and fair access and impartial service to all users
 - B. Ensure verifiable identification of all citizen and candidate contributors, with security and anonymity (if requested) for postings.
 - C. Be of a simple, user friendly design
 - D. Provide for equal, unedited and unlimited access to an exclusive individual page for each candidate.
 - 1. Universal, uniform, convenient, easy-to-post entries shall be made individually, unassisted, as sworn by each candidate.
 - E. Office for Voter Information District Boards shall be authorized to determine content, categories, and guidelines
 - F. Requests for printed, audio or braille content shall be delivered via US Mail upon request.
 - G. All content and postings shall be archived in perpetuity.

- III. The Legislative Forum shall meet all requirements for the Election Forum website listed above, with the following additions:
 - A. All members of the United States Congress and State Legislatures shall be allotted an exclusive page as described for candidates in II.D above.
 - B. All congressional and state legislative proceedings shall be live-streamed, with all other special needs met as enumerated in II.F above.
- IV. The website contractor shall submit to an annual performance review conducted by the National Board.
- V. Attempted breeches of security shall be prosecuted, resulting in mandatory prison sentences.
 - A. Contractor shall be required to cooperate in breech investigations

Prosecution

- I. Attempts to influence voting in elections and/or legislation by expenditure of funds, sponsorship or in-kind services shall be prosecuted as federal offence and punishable by imprisonment for a term of not less than 1 year, nor more than ten years and a fine.

GUIDELINES FOR APPROPRIATE LEGISLATION, EXPLAINED

Justifications, Considerations and Comments

Please, try to think of the amendment we propose, as a human body. The text of the amendment is the brain. The guidelines for appropriate (and supporting) legislation is the skeleton. These justifications, considerations and comments are the muscles, tendons and ligaments. We ask you, dear reader, for any ideas, suggestions and changes you may have, to make this a better, stronger, more agile and more useful whole.

Candidate Rules (Excepting Candidate Rules for President)

Any person seeking elected office must comply with the following:

If you choose to run for elected office, you will have to follow some rules. The idea that you get to set your own agenda is fine, in your private life; that is what freedom is all about. But elected office is a job, and a job that carries some considerable responsibilities; the trust of the public to serve the citizenry and work to meet the needs of the people and the common good, should start out in a dignified manner with a clear understanding that you are in fact, a *servant* of the public. We the people –the first three words of our Constitution – are in charge. As with any job; there are rules. There *has* to be a set the rules, as with any group effort. Having all applicants start with the same set of rules and agree to adhere to them throughout is a fundamental approach that will bring much better results to the whole process. Because, we the people, have allowed our trusted public servants, our employees, to start out campaigning without adhering to any rules, or

common guidelines, other than to raise as much money as possible, it's no wonder we have a government that is so completely dysfunctional.

Apply for candidacy with full personal history disclosure and a written statement, "Reasons why I seek this office" (limited to 1000 words):

Every job starts with an application and a resume'. This will start every applicant out with the same requirement of a public statement, and have her or him on record. It will give the interviewers a basis from which to begin the interview.

Participate in a peer interview process:

The idea here is based on our tradition of trial by jury. We trust this process to settle serious legal disputes and to decide matters of life and death. Decisions of public policy have serious consequences too, and should be taken no less seriously than legal decisions.

It makes no sense to entrust the selection of our candidates to a party nomination process that was not constitutionally formulated but happened on an ad hoc hodgepodge of rules set by parties themselves over the years. That's right, parties have complete control over candidate selection but, have no constitutional authority whatsoever. What's more, party domination of the political system wreaks havoc – it now creates false divisions and, perpetuates and intensifies those divisions through its complete control of the candidate selection process, as we discussed in our chapter, *Party Problem*.

Party functions, the caucuses and conventions, can have the feel of a high school pep rally. With traditions that are embarrassingly outmoded, like the walking sub-caucus where supporters of candidate, Sally, go to one corner of the room. And, supporters of candidate, Billy, go to the other corner. Then Sally's supporters try to lure Billy's away and vice versa. More like playground rules than a pep rally. (This really does happen.) Is this any way to select a candidate?

The Office for Voter Information District Boards (District Boards) [set out below] shall limit the number of prospective candidates to be interviewed to the 10 most qualified per office, based on review of their applications.

Since Money will be no factor, the number of individuals seeking office may increase. It seems logical, the best (and most democratic) way is for the publicly elected District Board members to be responsible for reducing the number of applicants to a manageable size for the numerous interviews that must follow. They and their assistants will systematically process the applications as with any job. [Remember, we invite you, dear reader, to contact us with your ideas to improve any elements of this proposal.] Making the final cut down to 10 for the interviews (and then, via the interviews, down to 4 for the primaries) is a logical progression, which will make number of interviewers required and, the number of interviews that must be conducted, manageable.

Each District Board within each state shall appoint one member to concurrently serve on a State Review Panel to review and limit applicants seeking statewide elected seats to 10 of the most qualified for subsequent participation in the peer group interview process.

In most states there are at least 5 statewide elected seats: Governor, US Senator, State Auditor, State Attorney General and Secretary of State. Having a separate State Review Panel to review the applicants for these seats will be required to facilitate reviewing the applications and to limit the number of applicants for the peer group interviews.

Peer Groups of three citizens (interviewers) shall interview each prospective candidate. Each interviewer shall participate in 20 interviews. Each interview shall be 30 minutes in duration:

Small groups consisting of three peers will be the interviewers. Each of the group will have been selected via a random process similar to that of selecting jurors for a trial. Unlike the jury selection process, once selected, the interviewer will immediately take her or his place in the interviewing group. There will be no lawyers deciding which jurors are most suitable and should be selected or rejected from a pool of potential jurors to be placed on the jury as for trials. Once chosen via the random process, the interviewer can decline to serve because of extenuating circumstances just as for jury duty. But unlike jury duty, most of interviews will be scheduled for evening hours and Saturdays, so most people will not have scheduling conflicts.

The interviews will be 30 minutes in duration. Each evening session will consist of 4 interviews with a 5-minute break period between interviews. Once a group is scheduled for a session, those three interviewers will remain together for that specific session. Each interviewer chosen will participate in 5 sessions per election cycle. The 2-hour, 15-minute interview sessions will be conducted primarily in schools, libraries and other public buildings. Child care will be made available for interviewers. Saturday sessions will be broken into 2 sessions, one in the morning and one afternoon session, also held public buildings, of course. All of this will require scheduling and staffing and oversight, described below in the Election Forum section.

Each three-member interviewing group will interview the prospective candidates for a specific office on a given evening or Saturday session, when possible. That is to say, all four interviews will be of prospective candidates for a single seat. State Attorney General for example, will be interviewed by the same group on one evening. That way the members of that particular group will have a better feel for the field of candidates and the issues facing that particular office. If there aren't 4 prospective candidates for that seat present for that venue, the fourth interview scheduled will be for another office.

To keep group dynamics from holding too much sway, the groups will change for every session. If selected, you will team up with two different neighbors for each of the 5 different sessions you participate in that election cycle. Then nobody will have to suffer too much if a real know it all type, or someone with less than ideal personal hygiene, gets selected to be an interviewer in your group. But think about it, in all of your plane trips, how many times has that been a real problem? An informal survey of experiences for those in our circle of acquaintances suggest that it won't be a much of factor at all. In fact, most people think the chance to meet with new folks and engage in a dialogue with prospective candidates might be interesting, and even fun. There

will be the written statement (mentioned at the top of this section) from each of the prospective candidates to start the interview. Think of it not only as a requirement but, as a universal ice-breaker as well. There will be no script to follow, so you will have the freedom to ask whatever you choose, and to express your opinions and let the prospective candidate in front of you – perhaps your future employee – what is on your mind, what issues and problems you would like to see addressed.

The number of interviews shall be proportional to the size of the electorate for the office sought:

Statewide offices will require the most interviews; Governor and United States Senator will be interviewed 200 times (by 600 interviewers).

There are several reasons for the large number of interviews. In any sample or study the larger the number the better. It's the best way to filter out extremes and gives a truer representation. But here it also serves a valuable function of giving the prospective candidate a real opportunity to meet face-to-face with a true cross-section of her public. That, is much more difficult under the current haphazard conditions of campaigning. Now, we see candidates careening from barging in to coffee shops to lurking around factory gates hoping for chance brief encounters to video. Most often the crazy quilt of campaigning focuses on party organized functions, or the dreaded rallies, where preaching to the choir is featured. We can easily do better.

What we are proposing will make in depth conversations possible with as large a number of folks as can be managed. This will also benefit the interviewers -- who are also voters. What better way to decide who you want to hire/vote for, than through an interview? Each of the interviewers (a considerable number to cover all prospective candidates) will undoubtedly share what they might have learned about the candidates they interviewed within their own circle. There will be far better, much closer personal contact for everyone, and much more of it than could possibly occur with the current chaotic mess.

Perhaps most importantly, is that it breaks the stranglehold the two major parties have on candidate selection and thereby the legislative process. This, on the other hand, is an entirely non-partisan process. As we point out in our *Party Problem* section, the two major parties are just as responsible for the dismal state of politics and government dysfunction as Money is.

Each interviewer shall rate each prospective candidate at the conclusion of each interview, on a scale of 1 to 10, by secret ballot

There will be no deliberation between the interviewers as for trial juries. Each interviewer will be responsible for 20 rating ballots for each election cycle (4 interviews in 5 sessions). The emphasis throughout must be on fairness and equal opportunity. Each interviewer must feel free to rate each prospective candidate as to how she or he feels the candidate would be suited to meet the demands of the office sought.

The four candidates receiving the highest ratings for each office shall participate in a primary election. If the office is open then the two candidates receiving the most votes meet in the

general election. An incumbent seeking re-election does not participate in the primary election. Self-explanatory.

The Election Forum (described below) shall be exclusive venue for public communication regarding the election.

Do we allow trial lawyers or prosecutors to argue their cases in television ads and on billboards? Aren't our elections as important as trials? Don't elections have consequences of equal or greater importance for our society than do trials? Then why should we allow our campaigns for elections to bounce all over tarnation, circus-like, in such an undignified and even ugly fashion, to elect those who make the very laws our courts are maintained to uphold.

Having a dignified, fair and open campaigns, with the same rules applying to all, is the adult and politically evolved solution. That will require rules, decorum and a venue. That venue will be the Election Forum, where common dignity will prevail according to a set of common rules just as we demand of legal proceedings, where the venue is the Court.

The Election Forum will inform voters and candidates alike in schools, town halls, public universities and other public sights all across the nation. For that matter, all across the world. See our chapter: *Global Problem*.

The candidate shall maintain pertinent information on the Election Forum web site:

One of the rules for the candidate, having successfully completed the job interview process, will be to inform the electorate for the job she or he seeks. Today that means a website must be mandatory. Each candidate will have an exclusive page on the Election Forum website to fulfill that job requirement. The content for each candidate will be unedited and unlimited. The public and press will have the access to the real source, straight from the candidate's own mind. Fake news purveyors take notice; *you're fired* – your tactics have been rendered useless by the Election Forum.

Candidate participation in Election Forum events will be mandatory. Events will include debates, press conferences, public meetings and speeches:

Don't you just hate it when an incumbent running for re-election refuses to debate the challenger? Our position – as citizens – should be: "Excuse me please, you are working for us, you must show comply with all of your job requirements." The same rules have to apply to all candidates – not only to be fair to the other candidates, but more importantly, to the public. It's our job as citizens to be informed voters. We need to be informed, so in order for us to do our jobs, we demand that candidates comply with their job requirements.

Again, all candidates will appear at the same events and since there are no longer any party designations assigned (or required by the parties) we citizens will be able to see the candidates side by side to compare them more easily. Because the candidates will appear together and, in many cases, ride together to the events, *civility* may break out! It's a little too easy to have an

“uncoordinated” Super PAC paid attack ad defame your opponent than for you to insult her to her face.

If an incumbent seeks re-election, the candidate receiving the most votes in the primary, and the incumbent proceed to the general election. If the incumbent does not run, the two candidates receiving the most votes in the primary proceed to the general election.

Having just one primary, rather than two, will simplify our elections and reduce costs. Eliminating party involvement in the process will automatically reduce partisanship and artificial party division.

Incumbents seeking re-election must officially announce their intention before the candidate selection process begins. Mandatory participation in the Election Forum events for incumbents commences after the primary and continues until the general election.

This is self-explanatory. As we mentioned earlier, since there is no money chase, there will be no need for any candidate to begin campaigning any earlier than is required. Likewise, an incumbent should be fulfilling the duties of the job, and thus doesn't need to begin participation in Election Forum events until an opponent is determined by the primary election. Besides, the office holder was elected/hired by us to perform the job, not to engage in perpetual campaigning.

PRESIDENTIAL CANDIDATE RULES

Each state will select a candidate, who shall also be a delegate to the National Presidential Candidate Selection Convention [National Convention] by statewide election.

This is as innovative as an “old convention” gets. Many have bemoaned the slow conversion of the national conventions into “coronations”; the presidential candidates having been chosen via a mostly state primary selection process, often long before the convention commences. Others bemoan the whole presidential candidate selection process for its conversion into what it has become; an overly long, overindulgent, overexposed, yet under-performing circus. There are probably too many justifications to list, as to why it would be next to impossible to find a single American who finds the presidential campaign worthy of praise and pride (honor...are you kidding?); probably as difficult as it would be to find an American who is proud of our political system in general. The two are linked in that the Presidential campaign is our biggest, loudest, and costliest in a campaign system that is completely corrupt and broken. The worst of the worst.

This is our best idea to take a broken institution, and convert a non-functioning convention into a working model of inspiring democratic innovation. You may be wondering, “Why go back to a convention to choose a candidate – wasn't that where all the images of smoke-filled back room deals came from?” For certain there are some examples in our history, that were the factual

genesis of the “smoke-filled back room deal” cliché. But if you bear with us through this summary of our “unconventional functioning convention” you will see this is a new, rational, open, presidential candidate selection convention that leads to a national open presidential primary in a way that is fair and informative. The convention *will* be televised. It will be free, fair and open for all to witness. There will be no closed doors. No smoke-filled back rooms will even exist.

Prospective candidates will apply with a (1000-word) written statement, “Reasons I seek this office”, and successfully complete 250 group peer interviews in the state where the candidate resides:

This, Presidential Candidate Selection (PCS) process is the same as for all other prospective candidates for all other public elected offices. In effect, what we are doing is having our prospective presidential candidates pass muster in her or his home state first. Originally, we broke the country into regions of equal population to serve as the PCS apportionment; so, we would have equal representation. This would have added a layer of complication that would have added additional costs as well. After all, the US Senate is similarly un-representational (two Senators from Wyoming and two from California). And in this case, since each of the 4 prospective candidates getting the highest ratings then must compete in an election, having those elections held in the states, with existing election apparatus in place, seemed the logical and least costly option. (This is not to say a strictly proportional to population method couldn’t, or shouldn’t be implemented.) Your input here, please.

The four highest-rated candidates will participate in a special 21-day Election Forum, followed by a state-wide election. The candidate receiving the most votes will represent his or her state as the candidate/delegate at the national convention:

This special 21-day Election Forum, followed by the election will add a level of public scrutiny to the person who could potentially be elected our president. It also provides the voting public greater opportunity for involvement in choosing the president, at a personal level, that is not available to anybody currently not living in Iowa or New Hampshire.

Again, the current haphazard, party-run (therefore largely unaccountable) system for selecting our presidents (and arguably the un-elected “leader of the free-world”) is as embarrassingly dishonest, disorganized, unplanned, undemocratic (it’s as if it had been a scheme hatched by the 5’5” “big man”, Vlady (Napolean complex) Putin himself, to discredit us) and foolish as it could possibly be.

The 50 state candidate/delegates shall attend the national convention to select the four candidates for the national, open, presidential primary election.

Each state will send a person to the national convention at which four candidates will be selected, who will run in an open (non-partisan) national primary election.

Candidates/delegates will participate in a series of 50 one-hour discussions, commencing with a 15-minute presentation by each candidate/delegate to the whole assembly of

candidates/delegates, followed by a 45-minute open discussion. The convention will be organized such that each candidate/delegate will meet every other candidate/delegate, personally, in separate small group meetings of 5 candidates/delegates. At the end of the convention each candidate/delegate will select three delegates (other than herself or, himself) and rate them on a scale of 1 to 10 by secret ballot). All convention discussions and meetings shall be televised, streamed live via the internet and recorded for re-broadcast in multiple formats.

The convention will be open, fair, educational, functional and fun. Think of it as the best of the best we have to offer the world -- instead of the worst of the worst, the embarrassing circus act we currently allow ourselves to be tortured by.

As you can see, all attendees of the convention will have been thoroughly vetted via PCS in her or his home state by the interview process, then publicly scrutinized via a 21-day Election Forum campaign, then elected in a special state-wide election. Then, the 50 possible next presidents will have ample opportunity to assess one another in the open convention. (Who knows?) since one of them will become the next president, that person may have also met some future cabinet members. Wouldn't that be better than the current MO of rewarding personal cronies, bag men and party hacks with crucially important administration positions?

The four candidates receiving the most votes at the end of the convention will proceed to the national presidential primary election and be granted all the Election Forum privileges and shall adhere to the same Forum requirements, which are the same for all other offices.

Instead of the unseemly, uncoordinated, unaccountable (party-controlled) haphazardly hop-scotching closed-primary mess we allow ourselves to be subjected to, we will have a single open, orderly, national primary that is fair to all, candidates and voters alike. The single indisputable Election Forum will be a secure source for all proceedings and the candidates' own words will make fake news and Russian meddling seem like the ludicrous, old bad joke it was. Sorry, Vladimir and your error apparent(s), whomever he (or they) might have been.

If a president seeks re-election, the candidate receiving the most votes in the primary will be on the ballot opposing the president in the general election. If a president is not seeking, or eligible for re-election, the two candidates receiving the most votes in the primary will proceed to the general election. Self-explanatory.

OFFICE FOR VOTER INFORMATION: ELECTION AND LEGISLATIVE FORUMS

Each United States Congressional District shall have an Office for Voter Information (District Office), overseen by a five-member publicly elected District Board, who dedicate themselves to the organizing principle and fundamental purpose that guides the efforts of the District Office to provide fair, free, and open access for all citizens to share information, advocate, and communicate regarding state and federal elections and legislation. Each District Office shall

be overseen by a five-member publicly elected board, (hereinafter referred to as District Board).

Lest you be shuddering, “Oh no, another big government bureaucracy”, with visions of Obamacare’s awful rollout flashing before your rolled-back eyeballs, please, let us show you how and why the Election Forum can, and will be, a shining institution we will all be very proud of.

There is no reason why we must repeat past mistakes, or not learn from them, so as to make something new, better, and more capable of meeting our needs. Also, there are examples of government functions that do work quite well, thank you, which we can draw on. Finally, there is no reason we can’t involve talent from the private sector that has exhibited the know how we will need to make the Election Forum a success. Sure, the Obamacare rollout deserves to be the poster-child for government mismanagement that it was. But remember we have some successes too: we did land on the moon, NASA did it; the US postal service gets the job done (how much of your mail has been lost?); the National Institute of Health; the Center for Disease Control; the Census Bureau; and the Social Security Administration all run efficiently and have high approval ratings. Though they are not directly government run, our universities are large public institutions (mostly) and they are the envy of the world. So, it’s not all as bad – as some might try to have you believe.

Here is what will make the Election Forum perform better than you might have believed possible. The Voter Information Boards will be elected by the public, not appointed by the president or governors. Staggered terms will allow accumulated experience to maintain an even-keeled oversight while providing public accountability and, at the same time the autonomy a six-year term condones. Staffing the federal and state offices with career federal civil servants will also give the Election Forum uniform decorum and stability. District by district jurisdiction and oversight will ensure on the ground coordination of activities attuned to the prevalent needs of the people within the district, but with a nationwide and uniform set of governing rules.

The District Board shall have sole responsibility for reviewing and selecting prospective candidates for the peer interview process.

As we mentioned earlier, the field of applicants for prospective candidate may be large enough to require a means to reduce it to a manageable number. The most democratic method we could come up with, was for the publicly elected District Board to be in charge of making the decisions as to which applicants are the most deserving of further scrutiny as prospective candidates via the peer-interviews. If you see a better way, please feel free to chime in with your ideas.

After some thought, by setting the number at 10 of the most qualified who then to go on to participate in the interviews, provides prevalence of public choice to democratic advantage, while holding the number of interviews needed within feasible limits. Our first inclination was to go with 16 to create as much public contact through the interviews as possible. But the numbers of interviews and interviewers required would have been too large to be easily managed or sustainable in the long run. A more in-depth examination of the interview process and its feasibility can be found in our last chapter: *Questions, Qualms, Concerns and Objections*

The District Board and Offices shall also be responsible for overseeing and maintaining the Election Forum and Legislative Forum,

We must have congressional district level delivery of the Forums with publicly elected oversight. This will keep management of the system public, while allowing for local differences and specific needs in each district to be met by those most familiar with those singular local requirements.

and reviewing allegations of expenditure violations and recommending criminal investigations of the reviewed allegations.

If history lessons apply here; *only* prison sentences mean we mean it. We have to enforce our peaceful political evolution with tough law. Fines will not suffice. Fines will not deter the most wealthy and devious. Even stiff fines may be considered by some “donors” just to be part of the cost of buying influence.

The first elected District Boards subsequent to ratification of this amendment shall be formed by a special national election.

In order to begin and implement this truly democratic, transformative, first in the world, proudly public, non-partisan candidate selection system with publicly operated Election and Legislative Forums it will require a special national election of our first five-member District Boards.

The Secretaries of State in each State shall appoint and oversee a special election staff of fifty temporary workers, who shall randomly select 150 citizens per Congressional District to conduct the first peer group interviews of prospective candidates for the District Boards.

The Secretary of State, in each State is responsible for overseeing public elections. Therefore, the responsibility for conducting the first ever election of the Office for Voter Information Board Members would logically begin with the Secretary of State.

Prospective District Board candidates’ applications shall be reviewed and ranked by the interviewers and reduced to a short list of twenty for each district

This task will henceforth be conducted by the District Board itself. For this first election, we considered it necessary to accomplish it this way, for two reasons. First, it would have been another burden on the Secretaries of State offices that could potentially be quite cumbersome, especially in the more populous states. Second, the Secretary of State at that time will be an elected official but also a party member, and therefore, would not have the bona fides of impartiality, that the large number of randomly selected peer-group interviewers would have.

One hundred separate interviews of each short-listed 20 prospective candidates shall be conducted by three-person groups of interviewers to select the 10 candidates which shall appear on the ballot in each congressional district (via the same process described in the Candidate Rules above).

The only difference between this, the first national special election to establish the first District Boards of Offices for Voter Information, and all ensuing elections, are the larger numbers of prospective candidates and candidates. This is because this first election will seat all five District Board members in one election without a primary election. Henceforth, the elections will be preceded by a primary election and they will be staggered so that, at most, only two District Board members will be selected in each election.

The five District Office Board candidates receiving the most votes in each district shall form the District Office for Voter Information by hiring full-time staff, which shall be in place for all ensuing state and federal elections and legislative sessions.

Certainly, the first District Board will have more duties to establish a functioning organization, but it has to start somewhere. The first year of a garden is always the hardest. More goes into building a structure than maintaining it.

The first members of the board for each District Office shall be elected, and randomly assigned to single-terms of two, four and six years. Every Board Member elected subsequently shall serve a single six-year term, staggered alternately, in pairs and singly. The District Board election process shall be as described in (Candidate Rules).

This sets up the staggered ensuing elections, that will result in the desired effect of maintaining a level of experience and continuity within the District Boards' make-up to assure maximum efficiency in the Offices' operation.

The District Offices Shall Be Organized Consistently and Uniformly Across the Nation, as Follows:

Certainly, there will be differences in how each District Office carries out its mandate. But the basic elements and structure must be uniform and predictable. Businesses excel when there is regulatory certainty in the marketplace. Elections and Legislation should be afforded certainty and uniformity to best meet the universal need for voter information that is essential for a democracy to succeed and thrive.

Each Board member shall be assisted by a full-time federal civil servant to carry out the obligations of the office. Each position described hereinafter shall be filled by a federal civil servant, who shall answer to the elected Board in all matters pertaining to the District Office.

This position is that of the chief administrative assistant/office coordinator for each Board Member. The duties of the District Board are many, diverse and far-reaching. Each elected Board Member will have a considerable work load. The chief administrative assistant will help with these many duties of a very important job.

Each Office shall employ a peer interview coordinator, assisted by a data-base manager and six administrative assistants, whose task it shall be to oversee and manage the random selection of citizens to conduct all peer group interviews within the district, and schedule all interviews.

Since the United States justice relies on trial by a jury of peers, there is a great deal of experience to draw on for implementation of this innovative method for candidate selection. Maintaining data on a pool of potential interviewers will be quite similar to trial jury pool information, usually maintained by individual counties. Recent advances in information technology has streamlined the process and made it much less labor intensive and thereby less expensive than in the past. However, the sheer number of interviewers that will have to be called and scheduled for the many interviews will require significant logistical work and coordination. To accomplish this, eight public servants in each district working full-time will be needed.

Each Office shall employ a webmaster, assisted by two administrators, to assure the proper functioning of the Election Forum and Legislative Forum websites. Both websites shall be uniform in design, structure and operation in every District Office, but be autonomously moderated by the webmaster and staff in each individual office

The overall design of the Election and Legislative Forum websites is set out in detail below. It will, of course, look and function the same in each district, but local oversight and data entry will be administered separately by each District Office.

Each Office shall employ a communications director, assisted by two administrators, who shall oversee and manage all, mailings; scheduling of Forum events; outreach programs in universities, colleges, schools and libraries; design and implement internships; and coordinate seminars to share experience and lessons learned with other District Offices.

In considering how to structure each District Office and its function we found that envisioning it as an ongoing dynamic process was the best way to design it; something akin to dedication to lifelong learning. Fostering this nurturing environment and promoting it to the public will be the purview of the communications director and staff. Establishing and maintaining communication channels with the other District Offices to learn from mistakes and adopting new ways will be another important role for these three people in each District Office.

Each office shall employ a media director, assisted by two administrators to arrange all media contact: press releases, conferences, broadcasts, simulcasts, podcasts and recordings.

Remember the airwaves belong to the people, so the media director will be authorized via public domain to mandate broadcasts as she or he sees fit. Having said that, it could well be a huge commercial opportunity, especially for the statewide and national elections, for a given

broadcaster to be chosen to host the debates and town hall meetings, for instance. Think of the Olympics, NBA playoffs, World Series or even the super bowl thing. There is no reason why a chosen broadcaster should not be allowed to sell advertising during commercial breaks, since it can't be of a political nature anyhow. This means that the job of the media directors may be more that of assuring an even rotation of broadcasters to be chosen to host Election Forum events so every broadcaster has equal opportunity to reap the commercial benefits of hosting those events.

Having the District Office (and the National Board described below), the single source through which all media outlets are coordinated will essentially eliminate fake news regarding our elections. If it doesn't go through the District Office (or National Board for the presidential election – described below), it's not real news.

Each Office shall employ a logistics coordinator and four assistants to arrange travel for prospective candidates to peer group interview sessions and Election Forum events, and to schedule the sessions and Forum events in schools and other public buildings.

The job of ferrying the prospective candidates and candidates about, especially in the larger, more sparsely populated districts will require a substantial effort. Coordinating with school districts, universities and other public institutions to use their buildings on an ongoing basis will be no small task.

Each Office shall employ a separate director for the Legislative Forum and two assistants to implement its outreach to the community and legislative bodies through public events and to maintain and moderate the Legislative Forum website content.

Most of the focus here is understandably on our elections. Without properly run elections, which can't occur without a properly administered means of informing the public, the legislative process is doomed to fail. Witness the situation we face today.

But the legislative process also relies on an informed public. Of course, one may freely communicate with one's elected officials. And any constituent can sign up for e-mail communications from her or his representatives. (If you have ever been the recipient of these communiques, you may notice that they seem less informative and more like campaign blurbs than a constituent might appreciate.)

Aside from these two forms of communication there is very little chance for citizens to advocate or propose legislation in a way that reaches the public in general. As it stands now the only real way to do this is through paid advertising; generally, through an intermediary like an issue advocacy group or political party. You will invariably forever be hounded for money if you do happen to join one of these paid paths to advocate for legislation.

The Legislative Forum is designed to cut through all this junk, and sweep the pay to be heard debris from the steps of our state and federal capital buildings. The Legislative Forum is really separate from elections and so deserves its own platform, and its own staff.

Each Office shall employ an investigator and one assistant responsible for reviewing allegations of violations of the amendment and its supporting legislation. Results of these investigations shall be reported to the District Board on a regular basis.

Think of these two employees as an extra set of ears and eyes that can be sent out ahead of the District Board members who will have the principle responsibility for fielding allegations and recommending further investigation or prosecution to the appropriate judicial authority. Please, try to bear with us through the hypothetical need for this office. Which is why we brought you here: this is a summary model law -- a model of any kind, presupposes modifications. Laws are certainly not exceptions...

Each office shall employ special temporary staff of twenty individuals to support Office operations in the nine months prior to the first general election. Assessment of operations after the first election cycle, by each District Office, and by a national conference of representatives (one from each District Office), shall result in recommendations to be passed on to Congress for improvements in carrying out the mandate of the 28th Amendment for future elections and legislative sessions.

A staff of temporary workers for the very first election cycle will be ready to assist the permanent staff for the very first election after the ratification of the amendment should there be a need. The special conference after the first election cycle will provide a formal opportunity to recommend any legislative actions to address any unforeseen problems in the rollout of the new ways of selecting candidates and informing the public. Assessment of the temporary election time staffing, whether it's needed; should be increased, or decreased; whether or not other efforts are adequate, inadequate or redundant; and any other considerations that may need attention, are the types of topics and concerns to be taken up at the conference.

Of course, Congress may also, choose to hold hearings to assess the performance of the Offices for Voter Information, the Forums and problems that may have arisen. There should be an atmosphere of flexibility and a sense that changes can be made to meet changing needs on an ongoing basis. The concept of governing ourselves is flexible, agile and positive. This opposed to our prevailing paradigm of Big Government; other, huge, dysfunctional and impossible to change.

The District Boards of each state shall vote to select one member from each state to serve a separate Office for Voter Information National Board [National Board] of 50 members to oversee the National Presidential Candidate Selection Convention and Election Forum activities for the presidential primary and general elections. The First National Board, subsequent to ratification of the amendment shall serve terms in alphabetically ordered (by state) cohorts of 17, 17 and 16 members, serving terms of 2, 4 and 6 years, respectively. Thereafter, each National Board member shall serve staggered single two-year terms. The National Board shall also be responsible for the formation and oversight of the Election and Legislative Forum websites.

Again, this will mean that the states with fewer people, will have greater proportional representation on the National Board than those states with greater populations. If you can come up with an easier more democratic way to seat members on the National Board, please contact us (as we mentioned earlier) on any of the ways we have devised. If you see an omission, redundancy or obvious improvement, the same holds true. None of this is written in stone...yet.

An initial appropriation of four million two-hundred thousand dollars shall be made to each District Office to carry out the mandates as described herein. An additional appropriation of nine-hundred thousand dollars shall be made for the employment of the additional twenty staff members necessary for the nine months prior to the first general election. Also, an additional election year appropriation of one million three-hundred thirty-five thousand to cover travel, rent and additional logistical costs will be required.

This will cost us about \$9.00 per year for each eligible voter to provide, the highest value; open and equal; fully transparent and massively secure; with our best and most sincere effort; fairest; most comprehensive and thorough voter information that we can produce as a nation.

The current ludicrously corrupt spend fest (we citizens allow) comes in at \$22.10 per year, per eligible voter. And what do we get for what we allow almost exclusively Big Money donors to pay for? Exactly what, we the average citizens, pay for. Next to nothing. We need to step up and call the tune. It will cost us \$9.00 per year. The following is an overview for how we arrived at these figures.

\$3,885,000 is the estimated annual cost of salaries and benefits for all 5 elected Board Members, 28 full-time, and 20 temporary staff members in election years (\$2,985,000 annually, including years with no elections) for each District Office. Obviously, there will be some contingencies, such as special elections to fill vacant seats. This will make the average, annual, estimated expense \$3,435,000 for wages and benefits. The constant average annual expense for rent of space and other office expenses, such as, equipment and incidental travel, will be an estimated \$765,000. The additional election-year expenditure of \$1,335,000 (listed above, for travel etc.) will result in an annual average of \$667,500. This means the bottom-line, estimated, annualized expense for each District Office will be \$4,867,500. With 435 District Offices, that makes an average annual national tax-payer expense of **\$2,117,362,500**.

How does that compare to what we currently spend? The final tallies indicate that 6.5 billion was the reported amount spent just on the federal elections (Presidential and US Congressional) in the 2016 election cycle. That amount, however, does not include the unreported amounts spent by the 501(c) organizations (“social welfare” and other such “outside” groups). Estimates are very difficult to obtain a figure as to how much was spent overall, by all sources, in the 2016 elections.

Nor does this include state elections. For example, in the 2016 general elections in Minnesota, all seats in both houses of the state legislature were up for election except Governor, which was not on the ballot. The reported campaign expenditures for the general election were \$31 million, according to a Feb. 13, 2017 MinnPost story, not including any funds spent on primary elections; or “dark money” (i.e. from 501(c) organizations) that get by without reporting; and several other notable exceptions that had not yet been tallied due to having missed the filing deadlines before the story was written (perhaps as much as another half-million or so).

In their 2013 book, *Dollarocracy*, John Nichols and Robert McChesney, rigorously researched, documented and estimated the total spending on all public elections to be near 10 billion in 2012. (However, that amount was not just state and federal, but for *all elections* – including local elections, and for all offices from mayors to judges, right down to school board there was 1.5 billion spent. They attributed 8.5 billion of the total amount to state and federal elections. Their estimates included, not just those amounts reported by law to the Federal Election Committee, but also estimated expenditures by 501(c) and 527 organizations that get by being anonymous somehow. No I.D. necessary? Is that why they call it “Dark Money” ... because it is?

Using Nichols’ and McChesney’s methodology to get a truer estimate of *all* state and federal expenditures in 2016, not just those reported, we came up with a predicted percentage increase over the past election’s percentage increase over its previous, above the expenditures actually reported to the Federal Election Commission for the 2016 elections – (and not allowing for hockey sticks) -- we are much closer to \$10 billion for state and federal expenditures.

In the 2014 total reported expenditures for Congressional spending was \$3,845,394,000. Add the state spending, which (is estimated) to have *increased* over 2012, to roughly 1.8 billion and you have 5.6 billion. The “unaccounted” expenditures (i.e. dark money -- DM) has also found increasingly fertile grounds to sow seed money in state elections, and was estimated at nearly 1 billion in all state elections combined, making 2014’s magic number \$6.6 billion. Keep in mind, this not to mention all of the judges and local government candidates for whom expenditures are made on behalf of by duly reported amounts or any of the DM. (Please, see near the end our chapter: *While we are at it* – concerning choosing judges.)

In other words, for all three election cycles; 2012, 2014 and 2016 a true estimate of the total all campaign spending is \$25.1 billion, which is at an average annual rate of \$5.2 billion, for the 5-year period. We would rather you look at campaign spending on an average amount per year, since we are now really in a state of continual campaigning anyhow (or at least of continual money raising). This also gives you a better perspective from which to compare the cost of our proposal (if enacted) versus what we now spend. So here it is: **\$2.12 billion vs. \$5.2 billion** per year.

Here are some other ways to look at it:

Would you prefer to enact our proposed amendment at a cost **\$9.00 per year** for each eligible voter (based on most recent estimates of 235,248,000 eligible voters in the United States) or stay

mired in this corrupt system at a cost of **\$22.10 per year** (and rising) for each eligible voter per year?

Would you pay \$9.00 a year to never see or hear a political ad ever again?

Would you pay \$9.00 a year to be part of what may be the most positive political transformation – maybe ever?

\$9.00 a year gets you real democracy.

Would you rather tell your state reps you want to pay less than half as much to govern ourselves responsibly, with integrity, than do nothing, and be witness to the cynical unraveling of our nation?

Governing ourselves with dignity for \$9.00 a year, we proudly pay for, ourselves; or Big Government for Big Money by Too Big Parties for \$22.10 per year, that Big Money buys for itself.

We – *you* and *I* – can decide. It really *is* up to *us*.

ELECTION AND LEGISLATIVE FORUM WEBSITES

The office for Voter Information National Board shall select, via open competition, a website contractor to design, construct and maintain two websites: “Election Forum.gov” and “Legislative Forum.gov”.

An open competition will allow the public to witness the process, and add to the spirit of openness, transparency, pride and integrity which will be the hallmark of this entire political evolution.

Prospective competitors will first have to demonstrate the technical, experiential and financial capacity to carry out the contractual obligations that winning the competition will entail. Having passed that scrutiny each competitor will then create a system and convince the National Board of its viability. The National Board will select the best of the competitors to award the contract.

The Election Forum Website must comply with the following requirements:

Allow free, open and fair access and impartial service to all users

It will make no difference whether you are a clerk at a convenience store, or CEO of a Fortune 500 corporation; your access to the Election Forum will be exactly the same.

Ensure verifiable identification of all citizen and candidate contributors, with security and anonymity (if requested) for entries.

The Election Forum website is to be used by citizens and candidates exclusively. Citizens may espouse the views of an organization, but a real person has to make the entry, and each person may only account for one entry at a time, by manually typing the words by herself or himself. No cutting and pasting or copying will be allowed. It will be very similar to the system used to e-mail your representative in the House or Senate. No ifs ands or bots.

Be of a simple, user friendly design

No videos or fancy graphics will be allowed. Just words; that way, no set of technical skills (or professional air-brushing) can be employed -- thoughts, ideas and plans without adulteration will give everybody equal footing -- where words work best. Keep in mind, each of us (citizens only) will have our own space for entries. You will be assigned your own, for your use only, as long as you can verify your identity (with guaranteed security). You will get your very own I.D. number. Only you get to write there.

Provide for equal, unedited and unlimited access to an exclusive page for each candidate.

As we explained earlier -- this will be the backbone of each candidacy. Providing voters with the final, single source and exclusive word from the candidate, will eliminate the gap through which fake news slithers.

Universal, uniform, convenient, easy-to-post entries shall be made individually, unassisted, as sworn by each candidate.

We need the real candidate to stand up and give her own real words to the voting public, from her mind through her own fingers. Think of it as sworn testimony. That is what we require in our courts of law. Our elections are certainly no less important. The candidates' spoken words will also be publicly recorded, by way of the Election Forum events, described earlier (debates, press conferences and public meetings etc.). Laws and Court decisions are rendered in words alone. Shouldn't those who aspire to be our lawmakers be required to use their own words alone, and by themselves, to convey their own ideas? Do we learn what our elected representatives really think from an ad created by an ad agency professional?

Office for Voter Information District Boards shall be authorized to determine content, categories, and guidelines.

The publicly elected Voter Information Boards will act as moderators. There have to be referees in important games. Our elections are not pick-up games where you, "call your own fouls". But that is exactly what we allow presently, in our most consequential competitions of all -- our elections.

Requests for printed, audio or braille content shall be delivered via US mail upon request.

All content and postings shall be archived in perpetuity.

The need for this to be a permanent part of the public record is so that false accusations and false denials will have no place to hide...forever.

The Legislative Forum.gov, shall meet all requirements for The Election Forum.gov website listed above, with The Following Additions:

All members of the United States Congress and State Legislatures shall be allotted an exclusive page as described for candidates above.

This includes the requirement that the representatives enter the words by themselves, not by a “staffer”. The purpose of the page is to allow the representative free communication with her constituency regarding legislation. As with Election Forum.gov every citizen can participate; every citizen will also be able to make entries regarding legislation. More importantly, this will be a place where citizens can propose new legislation themselves, not merely react to, or advocate for legislation that has already been proposed.

All Congressional and state legislature proceedings shall be live-streamed, with all other special needs met as enumerated above.

It may be possible to collaborate with c-span on this, for the US Congress. But this would be strictly to broadcast the proceedings; no call-ins or op-eds would be appropriate here. In addition, each state legislature would gain a valuable democratic tool by having its proceedings live-streamed. Closed door sessions would be prohibited. If you are representing the people, your words are public, and must be recorded. (The final stake through the heart of cloak room deals?)

The website contractor shall submit to an annual performance review conducted by the National Board. Self-explanatory.

Attempted breeches of security shall be prosecuted, resulting in mandatory prison sentences.

Fines are fine for some sentences. But we want all convictions to result in time for crime. It is the best deterrent. This is our democracy we are talking about here, that people have given their lives to defend.

The Contractor shall be required to cooperate in breach investigations. Self-explanatory

PROSECUTION

Attempts to influence voting in elections and/or legislation by expenditure of funds, sponsorship or in-kind services shall be subject to federal prosecution and punishable by imprisonment for a term of not less than one year nor more than ten years and a fine.

Again, we the people, have to be able to put up a very serious deterrent to protect this very serious effort of ours. Try to mess with our democracy and you will go to federal prison *and* possibly pay a heavy fine. Period.

CHAPTER 8

THEY DID IT, AND NOW, SO MUST WE

Constitutional Amendments happen when citizens take the initiative

Don't let anybody tell you that you are not in charge of your own government, or that you can't amend your own Constitution. Constitutional Amendments are not impossible, as some would have you believe. Indeed, we have amended our Constitution 17 times (27 times if you include the Bill of Rights). Here are four relevant examples of citizen led constitutional amendments. The people employed a special tactic to propose the 17th Amendment, to elect their US Senators directly by popular vote. Women vote, thanks to their century long struggle to finally achieve our 19th Amendment. Poll taxes were prohibited by our 24th Amendment. If you're old enough to die for your country, then you are old enough to vote (26th Amendment).

Change is possible when we remember *our* Constitution is indeed *ours* and, to use the rights it grants us, the rights we have fought and died to preserve, as they were intended to be used by *our* Framers. We have done it before. We can do it again. Let's take a look at how our great grandparents, grandparents and parents did it (mothers, fathers, and parents henceforth). We can thank them for showing us the way. And, for giving us no excuses for inaction by way of setting an example with their own actions – because that's what good parents do. It is what we must now do for our children and grandchildren as well.

A Tactical Template and an Object Lesson: Our 17th Amendment

Our ingenious parents decided they'd had enough of their corrupt Senate. Embroiled for decades in blatant corruption, where the want of money over needs of people was on open and vulgar display, with its greed reaching its most absurd and profane flame-out in the gilded age. Scandalous cases of corruption, some of which were investigated and proved money passed hands for Senate seats right in the State Capitol Buildings (cloak room deal cliché here), where at that time our US Senators were “chosen” by state legislatures. Our parents knew this was a fatally Faustian arrangement and, that it needed to stop. They also knew their history and their Constitution. So, to achieve the 17th Amendment they made ingenious use of a very ingeniously placed path to amend our Constitution in Article V by one of our more highly prescient Framers, George Mason, as a tactic to force the changes they needed on the very badly behaving Senate of theirs. Amending our Constitution by way of our state legislatures is the tactic we can use once again to achieve our 28th Amendment, to finally get what we have so desperately needed since our nation began: to get money completely out of politics, once and for all, by playing what we refer to henceforth, as the “convention card”.

Some historical postulators would have us believe that the Framers were so afraid of the great scythe and pitchfork wielding masses getting the upper hand as they had in the peasant rebellions

– where the unspeakable ignominy was said to have been suffered, of perfectly good powdered wigs having to be hurriedly flung into the ditch by poor nobles lest they be spotted, chased down and, [unthinkable] by angry peasants, that the Framers over-swaddled the Senate (American nobles) with protection from potential peasant perturbation. With Article. I. Section. 3. of the Constitution: “The Senate of the United States shall be composed of two Senators from each State, [chosen by the Legislature thereof,] ...”, the Framers put the Senate out of the reach of the public vote. Whatever the Framers’ motivation (original intent speculation is an inherently slippery slope) the manner of choosing Senators was seen as archaic, undemocratic and corrupt. The 17th Amendment was a great attempt at fixing the Senate. However, it came up short of its intended goal. This is the object lesson and one name says it all – Rod Blagojevich. We owe it to ourselves, our children and all future generations to finish the job our parents started with their 17th Amendment. By getting money out of politics once and for all, all the Rodney Bs go bye-bye.

The prolific and brilliant documentarist, Ken Burns, mused, “History doesn’t repeat itself, but human nature never changes”. Rod Blagojevich is living proof. The 17th Amendment sought to end the possibility of corruption, by ending the corruptible and, undemocratic way of choosing our Senators. Amending the Constitution with direct election of Senators by popular vote was decided upon as the logical solution. But, what if a Senator couldn’t complete his term? (This was pre-19th Amendment so, yes, his term.) So, the authors of the 17th came up with, “...When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.”

When Barack Obama vacated his Senate seat to become President, that left then Illinois Governor Rodney, “Blago” Blagojevich (beware of those with bad hairdos) to infamously indict himself by brilliantly boasting while recorded, “I’ve got this thing and its fucking golden, and uh, uh, uh, [apparently searching for the next nugget] I’m not just giving it up for fuckin’ nothing. I’m not gonna do it. And, and I can always use it. I can parachute me there.” Presumably, metaphorically speaking, to a better place than where he did in fact land and, perhaps with a bit harder landing than he had been dreaming of “parachuting” himself...14 years in federal prison.

The object lesson we should learn: If we are going to go to the extent of amending our constitution to end corruption (as we all agree, we must), then because human nature, particularly greed, in the temptation rich environment that Money buying political influence produces, we better damn well make sure there are no loopholes, ambiguities, cracks or crevices. Zero is the answer, because zero is zero; it’s absolute and “can’t be cheated”. No Money = No Blagos.

Playing the Article V Convention Card

We can amend our Constitution in two ways. Congress can send an amendment by a two-thirds vote in both Houses on to the state legislatures where three-quarters of them must agree to ratify. The other is what we are calling the convention card. On the application by two-thirds of the state legislatures, then Congress must call a constitutional convention for proposing

amendments, which require approval by the same three-quarters of the state legislatures for ratification.

It is this method that our parents used, which gained enough momentum/leverage (two states short of the two-thirds threshold and two more were on the way) to force their recalcitrant Senate to finally heed the inevitable and head off the “specter” of a convention by suddenly finding enough votes to adopt the amendment and send it back to the states where it was quickly ratified, becoming our 17th Amendment. This is the template for the tactic we can also employ to achieve our 28th Amendment.

This tactic has six distinct advantages:

1. It has been successfully used resulting in an amendment without the convention actually taking place. It is people powered political leverage. It’s a big stick with moral clout, backed by Constitutional authority.
2. It gives everyone the opportunity to act. Everyone has a voice. Grassroots action is at its best with a plan and a goal – not just a protest.
3. Your state legislators are easily reached. By design, they live in your neighborhood. (Well, ok maybe not in sparsely populated rural areas, such as the one I live in. My lower house representative lives about 25 miles away – but then our definition of neighbor can include someone living at that distance too.) And that is what this use of our right to petition is really all about. It is a conversation between neighbors.
4. It’s guaranteed by our Constitution: our First Amendment gives everyone the right to petition our government. Article V requires our Congress to call the convention if two-thirds of our state legislatures instruct them to do so with their applications.
5. It’s an automatic fast-track to ratification. If a state makes an application to Congress calling for a convention to propose an amendment, then it would doubtlessly vote for ratification as well.
6. The petition process is peaceful and positive. It doesn’t require any memberships, fund-raising, money or lot of hullabaloo.

Article V convention card: history, misconceptions and potential for misuse

Ambiguous language in our Constitution has led to many a misconception. Article V is no exception. We will try to clarify Article V as it pertains to the convention card by relying primarily on the work of four very highly regarded Constitutional history scholars, authors and professors: Sanford Levinson, University of Texas Law School; Lawrence Lessig, Harvard Law School; Michael Paulsen, University of St. Thomas School of Law; and Christopher Phillips, not currently connected to an esteemed institution like the others but no less brilliant, and founder of Democracy Café.

This is the pertinent portion of the text of Article V: “The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, *or on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments*, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified...”

The topic and acknowledged need to create alternative methods to amend the Constitution was fodder of a lot of documented back and forth at the Convention according to The Records of the Federal Convention of 1787, hereinafter: (the Records). Alexander Hamilton, James Madison and, of course, George Mason were quoted or paraphrased in the Records with various writings and thoughts. The most salient of which, in our opinion, was Mason's: on September 15th (just two days before the convention adjourned) according to the Records, "no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he verily believed would be the case." That must have struck a chord, because until that late hour Article V was set to follow Madison's removal of the previously floated reference to the concept of calling a new convention, instead giving sole authority to Congress to propose amendments whenever it would, "deem necessary, or on the application of two-thirds of the several States."

So, back to: "...or on Application of two-thirds of the several States, shall call a Convention for proposing Amendments..." it went for posterity, with unanimous approval. It's sometimes referred to as Colonel Mason's little gift. James Madison may have had the last laugh on this, however, according to the Record, "difficulties might arise as to the form" a new convention might take. Nobody at the convention thought to spell that out. By that time, the Convention was close to adjournment and, even those patricians in attendance probably had things to attend to back home. They'd been at it for 3 months. Our constitution is replete with punts. Still, the lesson is: do whatever is humanly possible to eliminate ambiguities.

It is our contention that the highest and best use of the convention card is to propose exactly and, with the highest degree of specificity, an exact text of the proposed amendment, on a petition to your state legislators and to include that text in the state's application to Congress, so there is no ambiguity. Here are several reasons why this approach is advisable.

It puts the unfounded fear of a "runaway convention" calamity where it belongs: out of the question. Some have tried to use runaway convention specter as a reason to reject playing of the convention card all together. They base their argument on the letter "s"; as in the plural of amendment: "...shall call a Convention for proposing Amendments...", rather than, "...shall call a Convention to propose a single Amendment..." Is the fear that proposing a single amendment, as was the case for the 17th and, indeed, for most of our amendments was not valid? Or, that at the said convention the possibility exists, that proposals would just go on being proposed and proposed, ad infinitum, simply because of the letter "s"?

Look at the first sentence of Article. V. "The Congress...shall propose Amendments...". It's the plural of Amendment there too. Meaning in both cases, quite clearly, that the plural is all inclusive. It's a lot less clumsy than something like, "...shall propose more than one Amendment or a single Amendment, which, in either case, shall be a valid method of proposing Amendments..." Would that be better!? The whole argument is utter nonsense. It seems a bit like Bill Clinton's grasping, "It depends on what the meaning of the word, 'is', is'," in his pathetic attempt to wiggle out of a Grand Jury question.

O.H., by the way

Orrin Hatch, Senior Senator from Utah, and a bona fide Constitutional expert himself, finally laid the whole “run-away convention” gambit to rest, and it is his example that we have followed to propose a single amendment, text and all, with full confidence in its legitimacy.

Senator Hatch authored Senate Bill 40 – Constitutional Convention Implementation Act of 1985. His was an effort to lay the groundwork for the Balanced Budget Amendment, the latest legitimate example of playing the convention card, and model for our petition to state legislatures to make applications to Congress to call a convention to propose our single, specific amendment.

To give credit where its due: we never would have known of Orrin Hatch’s Bill if it weren’t, once again, for Lawrence Lessig and his citing of it in his seminal work on Money’s ruinous effect on our poor body politic and, thereby everything else in our society. And we’ll also credit Dr. Lessig for handing us another nail for the “runaway convention” paranoia coffin.

Ratification requires that the legislatures of three-fourths of our states approve an amendment with their own majority vote. So, if by a wild stretch the said convention ever were to convene, resulting in a whole mess of crazy un-called for amendment proposals, it would still have to surmount what is an even wilder stretch of unlikely outcomes that 38 state legislatures would say, “Yeah, we like all that crazy undemocratic nonsense” and vote to ratify.

The final nail comes from the most intrepid, honest and carefully critical “building inspector” of our Constitution, Dr. Sanford Levinson. Don’t let the title of his book, “Our Undemocratic Constitution” put you off. It is by no means negative. He just points out the structural deficiencies of our Constitution. The omissions and components that might have passed building code 230 years ago, but are currently posing serious stress points that could lead to building collapse if not repaired. One of those is what Dr. Levinson refers to as, “the iron-cage”, Article V itself. The bars on constitutional amendments are so impenetrable that they lock-out necessary building improvements from being considered. However, as he points out, that does not mean we should not try and he also believes the convention card is the peoples’ key.

But that doesn’t seem to prevent some very unnecessary amendments being proposed right at this time by dubious characters out for self-enrichment and for a select circle of super wealthy philanthropic tax-free foundation manipulators who seem to be very needy for more. Let us pull back the curtains.

Article Five Jive

Currently there is one seriously egregious abuse of the convention card, that we wish to point out, so as not to be associated with it, or discredited by it, merely for using the otherwise perfectly legitimate convention card. For starters, our proposal is very specific. The proposed amendment for No Money Elections is in its full text ready for consideration. It’s quite clear that the purpose of the convention that might (*or, more likely, might never*) be called would be to propose this one very specific amendment and that this would be the sole purpose of the said convention. Discussion and deliberation of its merits, possible improvements and changes would govern the agenda of the (again, quite hypothetical) convention. Our proposed use of the

convention card is strictly for the sake of leverage, as employed by our parents to get our 17th Amendment.

We don't necessarily need a convention to achieve this. Though we do not, of course, oppose a new convention either. Under the condition that this very specific proposal is the sole purpose for the said convention to convene: for discussion and deliberation by 102 delegates comprising 3 individuals, who had never previously held elected office, selected by the legislatures of the 34 states whose applications to Congress had required its convening. These 102 delegates shall be responsible for making the rules by which the proceedings to achieve the mandated amendment are governed, and which without further changes, the Congress shall send to the state legislatures for ratification. Under these favorable conditions there would be no reason to fear the convention or what it creates.

We're calling out one specific case, namely the Convention of States (COS), for scrutiny to show that playing of the convention card does not automatically confer legitimacy. All uses are not equal nor worthy. Attempting to appropriate the convention card to amend our Constitution for personal enrichment is more than unworthy, it's immoral.

The COS is funded by Citizens for Self-governance (more later, of course). Their self-avowed for the rich agenda for the proposed "open Constitutional Convention" is enveloped in a cloak of righteous indignation against big government, with vague promises to return to original visions, and, of course, to reduce and even eliminate certain taxes. They use a shot-gun approach of some really in-your-face deals for the rich like, no taxes for "earned" income beyond a certain point. Then, they toss in term limits, which is not a bad idea in and of itself and, which has broad appeal. It's likely some folks would jump on the COS train just for the sake of term limits. So maybe, since they missed the messages while "getting involved" i.e. donating, then they might not notice another for the (remember – hypothetical – convention in the sky) greedy grab-me more money now scams, under the guise of something worthy like "Citizens for Self-governance" or "Citizens United" for example. Like so many of these fronts for the Koch-conspirators, they have a signature penchant for Orwellian double-speak names. Upon contacting the organization, they disavow any connection to the Koch brothers, yet all four members of the board of Citizens for Self-governance have well documented histories and have worked closely for and with the Kochs in the past according to Jane Mayer's research in her highly academic, journalistic and revealing masterpiece, "Dark Money". Are they afraid we'll discover that the "wizards" behind the curtains are just the two un-hinged, consumed by greed, Koch bros.?

Maybe they think that their lamprey-like attachment to the balanced budget amendment of yore might afford them some legitimacy, as with their attempt to bring in fans of term limits. But, to parlay support for the balanced budget amendment under the thin veil of associative legitimacy into big tax cuts for those who least need it by adding massively to the already perilous national debt is altogether too much. Have they no shame? But, why not? They have pulled off some good ones to line their own pockets by cobbling together disparate interests, and blowing a lot of smoke stoked by inflammatory anti-government babble.

Keep in mind this is just a small facet of the Koch's (relatively) cheap coup. One of many bets.

But damn-it, when the forces of evil are trying to use our tactics, we have to put aside the all peaceful, all positive, all the time theme and borrow from Jane Mayer's methodology and expose the Kochs for what they are. It's almost as if this "Convention of States" Koch project is an attempt to channel all of the worst paranoid fears of the aforementioned "runaway" convention and roll it up into one bad nightmare. But to what end? To ruin it for others? Are they trying to claim the convention card as their own to render it unusable? If we were to amend our Constitution with something approaching our proposal, the Kochs' and their Koch-conspirators' game would end suddenly. But, they should have no fear. Because each of them, as individual citizens, would have the same free access to the Election and Legislative Forums and the same one vote, *just like everyone else*. They just won't be able to spend money to amplify their voices over others or to buy influence anymore, no less and no more. Zero, is zero. It makes all of us equal. Where positive, peaceful, true democracy can finally flourish. Where we can govern ourselves with pride and dignity -- to work together rationally, to meet our common needs -- in a more perfect union.

Our 19th Amendment: Truth and Justice Prevail When Good Women Persevere

Nothing could be more inspiring to us than the success of women's suffrage. Our mothers had no political power, no money, nor any advantage at all, really. (Not so much as website, Facebook page, nor Twitter account even.) What they had was an undying belief in truth and justice through peaceful and positive perseverance.

They were, demeaned and disrespected; ridiculed and derided; fined and jailed; divorced and disowned. They lost time and time again in Congress. They were ruled against by the Supreme Court (*Minor v. Happersett*). Yet, they persevered. Inspired by the voting power of our Algonquin and Cherokee mothers, the giants of virtue from Angelina and Sarah Grimke', to Elizabeth Cady Stanton, to Lucretia Mott, to Susan B. Anthony, to Lucy Stone, to Alice Paul, to Ida B. Wells, to Lucy Burns, to Carrie Chapman Catt, not to mention the generations of our dedicated mothers whose voices, petitions and participation, without whom these great achievements *by constitutional amendment* could never have been made, inspire us to move onward with our own earth moving amendment.

Ending slavery, voting rights for women; and working for truth, public trust and justice, all while committed to healing social ills were the tremendous accomplishments of our mothers. Working with our enlightened fathers all over the earth from the early 19th century for nearly a century until suffrage was finally achieved in 1920, these parents of ours, who chose to persist, from one generation to the next, in pursuit of fixing these fatal flaws in our society, got the job done with Constitutional Amendments 13 through 19.

And, now we must persist in pursuit of getting money out of our elections. The baton has been passed by our worthy parents since (1907) when President Theodore Roosevelt signed the first serious attempt at it, with an act of Congress prohibiting corporate donations to candidates in federal elections outright. (See our *Reform Problem* chapter, description of the Tillman Act.) We've been at it for over a century now. So, we're due. We're just missing one well considered

plan for the ultimate goal of healthy elections so we can govern ourselves in the best way we possibly can. What we offer here is a way to implement that. It's time to finish the job our parents have been working on. Polls have consistently shown for years that vast bi-partisan majorities (some over 80%) of us know that money corrupts our elections (its painfully obvious to all, really) and we want it fixed. What are we waiting for?

Our 24th Amendment: Poll Taxes Are Prohibited – Sometimes It Takes A Constitutional Amendment to Get the Job Done

Racism is an evil that manifests itself in many ways and remains very difficult to eradicate. Despite the clear and unambiguous language of our 15th Amendment, [The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.], certain states of the old confederacy, nonetheless found ways to circumvent it through spurious legislation. Crouching cowardly behind the thin shrub of Section 4. of Article I of our Constitution, giving state legislatures authority to make election rules, in the late 19th century the legislatures of these outlaw states enacted “white primaries” and poll taxes to suppress voting by minorities, apparently, having convinced themselves, they could use these means to perpetuate white supremacy. Believing they were hiding behind legal pretense and pretending the rest of Section 4. Article I [...the Congress may at any time by Law make or alter such Regulations...] (those election rules made by state legislatures) either did not exist or wouldn't be used...?

But the rest of the nation could easily see the low poll tax for what it was; vote stealing. First, in 1937, the Supreme Court, as is their habitual wont, (see our chapter, *Supreme Problem*) ruled in *Breedlove v. Suttles* (to let states hide behind the first clause of I. 4. And, continue to steal votes with poll taxes) to set itself up to be overturned and, ironically forcing a constitutional amendment to rid ourselves of this evil -- vote stealing (to perpetuate white supremacy...?!). Our Congress got to work on it, citing its Constitutional authority per Article. I. Section. 4. (the 2nd clause), and with a forceful discharge petition, forced a floor vote of 254 to 84 to pass a bill to abolish vote stealing via poll tax on to the Senate. So, sinful southern seniority shenanigans shut the door by filibuster 1939 – round one. Round after round the Congress tried to land the blow, came very close – only to be filibustered before the bell. Our parents made their voices heard all across the nation and their representatives in Congress and in State Capitols acted on their behalf. This became a core civil rights cause. If the Congress couldn't surmount its own bad party ways, our folks started to look at those amendment gloves *their* parents had used. Now they needed to find someone who would pull the amendment gloves on.

Finally, our parents voted in a President who promised to make a Poll tax amendment happen (with just a little helpful persuasion from one MLK). JFK stepped in to the ring, and, making good on his promise, hectored the Congress to send the poll tax abolishing amendment on to the states, which it did, and which was summarily ratified in a little over a year. Sometimes it just takes an Amendment. Please people, pick up on our parents' pluck and perseverance and powerfully, peacefully, with a positive petition for a Constitutional cure, to govern ourselves purposefully and proudly, make this happen. Money makes mockery of democracy. All it takes is for us to exercise our First amendment right to petition our government and call for the

amendment we need, to get money out of our elections once and for all. And *that* will make a whole lot of positive change possible. It is ***THE, crucial***, first step.

Our 26th Amendment: If Your Old Enough to Die for Your Country, You Are Old Enough to Vote. Amendments *Can Happen Quickly*.

The Amendments we have just been discussing were the crowning culmination of generational perseverance. Truth and Justice will always win eventually. But we don't have to wait around for some magical tipping point. Our parents weren't about to be denied the basic right to vote if they were going to be forced to fight in a war they did not believe in. They knew the power of the vote was needed to end the insanity of the Viet Nam disaster. So back to the Constitution they went and got themselves an Amendment to settle the issue fairly. "old enough to die, old enough to vote" became a demand that couldn't be denied.

The usual plot line unfolded again, but on a much quicker timeline than our previous examples, simply because our parents kept the heat on. As per usual, Congress was ultimately unable to deliver because the parties couldn't overcome being parties (refer again to our Chapter, *Party Problem*). But, surprisingly, in 1970 Senator Ted Kennedy proposed and muscled an amendment to the Voting Rights Act through the Senate lowering the voting age to 18, in state and federal elections. Knowing his veto would be over-ruled, Dick Nixon signed it into law on June 22, 1970. A success? Not quite.

Not until the Supremes got involved. They yet again, as if scripted by the same sadistic satirist, stymied themselves into a logical impossibility (see a pattern here, maybe? If not, check out our: *Supreme Problem*, chapter.)

For reasons unknown, a state attorney general or two will challenge Congressional Acts, maybe, just because they *can*, sometimes...? And sadly, again, it all goes back to the inherent inadequacy of Article I, Section 4. As we have pointed out, the Framers', left the logistics of elections by sort of punting it to the state legislatures to figure out and run. But, they left the Congress the ultimate authority over election "Regulations" in the 2nd clause of Section 4.

The Oregon attorney general immediately challenged the aforementioned voting age lowering amendment of 1970 to The Voting Rights Act as an unconstitutional infringement of the state legislature's authority to govern its own elections pursuant to Article I. Sec. 4. (as per the 1st clause). Instead of simply exercising its option of not taking up the case, the Supremes instead took it up and made a mess, as we have shown with so many other decisions, is like a bad habit. This time they split the 2 clauses of Section 4. evenly, authorizing the State of Oregon to determine the voting age in state and local elections while allowing the Congressional Act lowering the voting age to 18, to stand, but just in federal elections. This in the same year of 1970.

Of course, this resulted in an unworkable situation for states to potentially administer 2 separate sets of ballots for voters 18 to 21 years of age. Our parents would have none of this vote splitting silliness. Once again, the only recourse left was a constitutional amendment. Our parents demanded that voting rights of citizens not be denied those old enough to be asked to

make the ultimate sacrifice. In just about the time of a term of a healthy human pregnancy, from the time Nixon signed the Act, including the Supreme Court's fumble, the amendment was proposed and, the 24th Amendment was ratified by the required 38 states.

The lesson here is that citizen involvement works. It really works, and it can be quick, if we citizens say it must be so. Our parents showed us this by example, and we *can* do it too. It only requires a simple exercise of our First Amendment right to petition. Just make two copies. Fill them out and sign them. Send one to your Representative in your *State* House of Representatives, and send one to your *State* Senator via good old US mail. And, for good measure make and keep one copy for yourself (show your friends and post in social media if you like). Go for it. It's completely free and easy. No donations, no rallies, and no negativity necessary.

CHAPTER 9

FIRST AMENDMENT STRENGTHENED

Free Speech Must be *Free*

The 28th Amendment we propose will strengthen our First Amendment in many ways, here are a few:

- 1.) The proposed 28th Amendment will effectively overrule Supreme Court campaign finance law decisions spanning nearly four decades, from *Buckley*, in 1976, to *Citizens United* and its descendants through *McCutcheon*, in 2014. The contortions of logic those decisions required, became twisted paradigms: money is speech, corporations have the First Amendment rights of citizens, and that there must be no limits on campaign spending. Those distortions of our First Amendment gave Money control over political speech, particularly in election campaigns. The content and meaning of speech were not at issue, nor was the freedom to speak. But, the amount and amplification of speech in election campaigns was made entirely dependent upon expenditures. You may be able to advocate brilliantly for a candidate, but without the expenditures required to reach a mass audience effectively, what good will it do?
- 2.) The Forums, as laid out in the proposed 28th, provides a mass audience for all citizens, candidates, elected representatives and advocates alike, without abridging speech by having to pay for the privilege. Heretofore, our First Amendment, while allowing freedom to speak, makes no guarantee that the speaker be heard. However, since, in the words of Justice Potter Stewart, “it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigns for political office.”, then especially in the realm of election campaigns, being heard is of equal importance to the right to speak. The proposed 28th amendment will strengthen our First Amendment by providing the Forums, from which all voices can to be heard with equal measure in election campaigns, and for discussing legislation as well.
- 3.) Since our First Amendment has its best use in election campaigns, then why we wouldn’t we do our very best to make sure we run open, fair, equal and welcoming Forums to give political campaign speech the best possible opportunities? By freeing candidates of the Money chase and giving them an open Forum, which puts them on guaranteed equal footing, requiring participation in all planned Election Forum events with full media access, then candidates will have the best opportunity to give us the best information we need to vote for one over the other (general elections) or the other three (primaries). By also giving each eligible voter equal opportunity to speak (write) to the public, via the public Forum websites, gives each of us free, open, and equal footing to inform and advocate.

Thus, the use of First Amendment guarantees in turn assures new best use applications in the realm of elections campaigns. And, we give ourselves the quality information we need to vote. You can see how this compares to our current campaign-cash finance regime. We don't get very good quality information from paid ads. Debates and other events are all arranged on an ad hoc basis. Media coverage is catch as catch can. It's bad. We all know it. This of course makes no mention of the myriad harms, beyond the distortions Money inflicts upon our First Amendment guarantees in election campaigns. Nonetheless, the claim will be made that using money to influence an election is protected by the First Amendment. This position, however, is not too convincing, especially, since the speech that would have to be paid for, could be expressed free of charge to the entire nation via the Election Forum, where thought, ideas and speech will be given reverence. It's only Money, that will have no relevance.

4.) The best way to strengthen any muscle is by exercising it. Exercising a long neglected, nearly atrophied and, almost forgotten petition clause of our First Amendment, will revive it and reinvigorate our civic responsibility to participate in self-governing. If we citizens exercise it as the Framers intended, as a tool to call for specific legislation, the petition clause will strengthen the First Amendment by giving citizens a stronger voice. At this point, a brief history of our petition clause would be more than merely edifying, as it is crucial to this entire effort.

CHAPTER 10

THE PETITION CLAUSE

Our First Amendment Power Tool

We have made repeated reference to the petition clause of our First Amendment and its importance as a “constitutional tool” crucial to this effort. So, we thought that at this point it might be helpful to give you a little background about its genesis and how it fits into *this* effort.

The right to petition clause constitutes the closing words of our First Amendment:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, *and to petition the Government for redress of grievances.*”¹¹⁷

Hidden right in plain sight, is our First Amendment right to petition. It has not often been used in recent times, but it’s perfect for this job. With this correctly worded petition, delivered to your state legislator(s), to call for this specific resolution, your petition gives you a voice, and your will, a way. A discussion of just why it is, that you are compelled to petition your representative, may be enough to convince her or him, of your petition’s merits and for your state representative to act in accordance with your call for this legislative action. If a majority of registered voters that had elected your representative into office, to whom you deliver your petition, do also (in person or by mail), it would be impossible for your representative not to heed the will of her or his electorate.

In her exhaustive study of our First Amendment Right to Petition, its historical genesis and evolution; its uses and court cases; and the examination of the lack of adequate consideration in its treatment by the Supreme Court, Julie M. Spanbauer, Professor of Law at John Marshall Law School, documents and comments on our unique right and its historically superior status relative to our other First Amendment expressive rights, entitled: *The First Amendment Right to Petition Government for a Redress of Grievances: Cut from a Different Cloth*, 21 Hastings Constitutional Law Quarterly 15 (1993).

¹¹⁷ Translations from late 18th Century legal language > **Petition:** 1. a formally drawn request, often bearing the names of a number of petitioners which is addressed to a person or body of persons in authority or power...10. to request or solicit as by petition: *to petition for redress of grievances.* [Middle English *peticion* from the Latin *petition*, (a stem of *petitio*) a seeking out...] Syn. 1. **Redress:** ...the act of setting right an unjust situation (as by some power): *the redress of grievances.* [Middle English *redress(en)* from Middle French *redress(er)*, Old French *redrecier*...] **Grievance:** 1. a wrong...considered grounds for a complaint...2. ...complaint, or the grounds for a complaint, against an unjust act. [Middle English *grevance* from Old French *grevance*.]

In fact, Professor Spanbauer shows us that the right to petition isn't just cut from a different cloth (both a play on the words and refutation of a Supreme Court opinion¹¹⁸) as she claims in the title of her work, it was the *original cloth*, from which all representative democracies, were cut.

What began as a written list of grievances, brought by the barons to King John of England, became the agreement known as the Magna Carta, signed in 1215, granting the barons the right to petition for redress of future grievances. As has been par for course throughout history, those in authority and power don't much care for the power the petition bestows upon the petitioner.

The petulant King John even tried to renege on his agreement with the Barons before his royal seal had cured. He secured a papal declaration that the Charter (later referred to as the Magna Carta) was void because it was made under duress, but to no avail. John's attempt to back out of the agreement *was itself*, a form of petitioning, thus, ironically, formalizing the procedure of petition.¹¹⁹

Professor of Law, Spanbauer, encapsulates how this process continued and evolved: "Over time, this became the customary practice, and various segments of society, including knights and burgesses, were also granted audiences by the crown as the royal government's financial needs increased. Like those of the barons, the petitions these representatives presented on behalf of individuals and their communities were granted in exchange for commitments to make payments to the crown." You might say it was a petition granted for tax paid arrangement – or -- taxation *for* representation.

This process ultimately led to the development of the Parliament, whose advice and consent was sought by the royal government before it would act of any magnitude. The king's council – which consisted of judges from common courts, officers, lawyers and jurists – comprised the core of Parliament, and the king received the petitions through his council."¹²⁰

In the ensuing centuries the importance and power of the petition, and that of the Parliament itself increased more or less apace. Progress was not without problem or pitfall, but by any measure, the Parliament slowly became increasingly democratic as penalties on petitioners gradually lessened. As a result, the right to petition the government for redress of grievances was free from punishment in eighteenth century England.¹²¹

Since, as Professor Spanbauer, assiduously reminds us, English, but especially colonial legal precedent, is where the Supreme Court must begin to pay special attention in considerations leading to decisions. It is a matter of Doctrine Principles.

Above from *The Random House Dictionary of the English Language, The Unabridged Edition (1966)*.

¹¹⁸ McDonald v. Smith, 472 U.S. 479 (1985): (holding that the Petition Clause does not create any greater right of public comment that contains false factual assertions than do the Free Speech or Free Press Clauses because the Petition Clause is "cut from the same cloth" as these parallel rights).

¹¹⁹ Bryce Lyon, *A Constitutional and Legal History of Medieval History England 642-49* (2nd ed. 1980)

¹²⁰ Spanbauer, *The First Amendment Right to Petition Government for a Redress of Grievances: Cut from a Different Cloth*, p. 23-7 (1993)

¹²¹ *Id.*

Our colonists were subjects of the King of England. At first, all petitions had to be filtered through the Governors, who were appointed by the “Crown” (rhymes with clown) and then on to the Parliament, where at each step a petition could be summarily dismissed, before it could possibly, finally be rendered on to the Crown. It may just be the case that the colonists had no choice but to find a clever work around, but whatever the case, in the American colonies, the practice of petitioning became well established with a simple informal procedure for the presentation of petitions. Petitioners directly presented written petitions with one or more signatures to a court, legislative body, council or governor.¹²²

What is most germane to our proposed use of the right to petition, is that already in the colonies the right to petition evolved to include a corresponding right to a response. The use of petitions became so prevalent that the colonial assemblies, had to resort to referring to them to advisory committees for consideration. There is even record of backups of petitions awaiting response from the petitioned body, be it the assembly (legislature), the court or the governor – but they were always answered.¹²³

When the First Federal congress convened in 1789 and took up consideration of what came to be known as the Bill of Rights, James Madison read into the Congressional record, his view that the rights of assembly and petition were best addressed in a separate amendment from freedom of religion, speech and the press:

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the legislature by petitions, or remonstrances for redress of their grievances.¹²⁴

This reflected the importance, during those times, that petitions played resulting in legislation, and of the common practice of people assembling to craft those petitions.

As is evident in the First Amendment, the First Congress eventually melded the freedom of religion, speech, press, assembly and the right to petition together. Yet, that did not subordinate the separate and superior importance of the right to petition to the other freedoms.

The Senate even considered amending the petition guarantee to include a right of individuals to give binding instructions to their representatives. Though the proposal was defeated, it was nonetheless understood, that Congress still had a duty to receive and consider petitions.¹²⁵

Considering this well documented history of the Petition Clause, particularly in regards to the precedents of the concomitant right of consideration and response to petitions, it is remarkable that the Supreme Court chose to disregard or ignore it, in its most recent ruling on this very issue.

¹²² Mary P. Clarke, *Parliamentary Privilege in the American Colonies* pp. 210-15 (1943)

¹²³ Raymond C. Bailey, *Popular Influence Upon Public Policy: Petitioning in Eighteenth-Century Virginia* 13 (1979)

¹²⁴ Documentary History of the First Federal Congress of the United States of America 1789-1791 at 10, 16 (Charlene B. Bickford & Helen E. Veit eds., 1986)

¹²⁵ Stephen A. Higginson, *A Short History of The Right to Petition Government for a Redress of Grievances*, 156, *Yale Law Journal* (1986).

In *Minnesota Board for Community Colleges v. Knight* ¹²⁶ the state employer refused to consider the petitions made directly by its employees, community college instructors. Justice Sandra Day O'Connor, writing the majority opinion,¹²⁷ declared, "Nothing in the First Amendment, or in this Court's case law interpreting it, suggests that the rights to speak, associate, and petition require government policymakers to listen or respond to individuals' communications on public issues."

Once again, the Supreme Court chose not just a narrow interpretation, but was willfully ignorant of historical legal precedent, or simply chose to ignore it. What is particularly irksome about the majority opinion in this 6-3 ruling, is that it asks us to ignore the framers' intent in crafting the Petition Clause. Why even have the right to petition the government for redress of grievances, if the petitions can just be ignored? And what of the universally accepted historical interpretation, from the Magna Carta on down; that the petition was the genesis of modern democracy? It was the original cloth.

The lesson here should not be one of acquiescence and surrender to the "mighty forces arrayed against us". Instead, it should inspire us to overcome yet another Supreme Court blunder, which have historically preceded our rising to right a wrong with our last (and best) resort -- a constitutional amendment. Think back to another bad Supreme Court blunder with a Minnesota connection, the Dredd Scott decision. It sought to perpetuate the evil of slavery. Did we let that stop truth and justice from prevailing?

The beauty of this Supreme misinterpretation is that we can just as easily ignore it, and prove the true purpose of our powerful First Amendment guaranteed tool to petition by using it precisely as was intended by James Madison and our First Congress. And, using our Petition power tool together with yet another constitutional tool at our disposal (the Article V convention card) to demolish the twin blunders of *Buckley* and *Citizens* on our way to a more perfect union that the No Money Elections petition we propose will make possible – governing ourselves responsibly with integrity and dignity.

Now, let's examine our tool for *this* job, this petition itself.

I, your- name, in accordance with my First Amendment guarantee, petition you, reps.name

You are announcing the purpose of your meeting or mailing.

To introduce, support and VOTE for a resolution

Specific instructions for legislative actions you are *instructing* your representative to carry out.

To apply to the United States Congress, pursuant to Article V of our Constitution, to call a constitutional convention to discuss proposing an amendment to our Constitution exclusively to*:

¹²⁶ 465 U.S. 271 (1984)

¹²⁷ *Id.* at 285

You want a constitutional amendment to get money out of our elections and your laying down the Article V. convention card which gives your petition its motive and your will a way. And, the following the 8-point outline of the proposed Amendment with full text attached, is your representative's, to read, ponder, discuss, and act upon. Thank you very much for receiving the petition. You probably won't get a shoe thrown at you.

It might be pleasant, positive and (who knows?) even transformative.

The eight-point synopsis doesn't really need explanation and, the proposed amendment has been, and will be even more thoroughly explained and discussed as it has been from many different perspectives throughout this book. Still and again, your input is very welcome. Sharing, cooperating, collaborating is openly encouraged.

After the 8th point there is a paragraph which might need clarification.

With this application, the State of, *your state here*, calls on Congress to bring the Convention to order to propose, discuss, deliberate and vote upon these measures with a voting body of three representatives, state residents who have never served in elected office, sent by each of the first 34 state legislatures also applying to Congress.

First, it's important to remember that the chance is very slim for a convention being called. Most likely Congress would intercede by proposing the amendment so as to avoid the possibility of being forced to call a convention if the requisite 34 states applied to Congress. (34 is the number of states arrived at from rounding up to a whole number from 33.33, which is two-thirds of the 50 states)

The real reason behind the final paragraph is mainly to motivate the state legislatures to apply early. Should the Congress not act preemptively, as it did in the case of the 17th before the threshold of 34 states is reached and the new convention must go on, then it would behoove every state legislature to apply quickly to secure the privilege of selecting three delegates to send to the earth-shaking event.

The other notion embedded in last paragraph, stipulating that elected politicians, past and present, not be allowed as chosen delegates is to avoid undue influence by party or Money, in the event the convention was to occur. Since none of this has ever been tried, it's pure conjecture, of course. However, it does have utility in that the Article V convention card provides even more leverage when it is shown that serious consideration has been given to playing it. It shows that our petition is no mere opinion poll. It is meant to deliver its intended result – our 28th Amendment to our Constitution.

CHAPTER 11

PARADIGMS, LOST – REPUBLIC, FOUND

The poisonous paradigms that predict our politics won't just disappear. Even if their toxicity is self-evident, it won't be until new alternatives are presented before the old harmful ways can be replaced.

Old paradigm, "... government is not the solution to our problem; government is the problem."

This quote from Ronald Reagan's first inaugural address declares "The Government" is static, problematic and detached, something other, separate onto itself and not of the people. It implies that The Government is bad and certainly nothing to be proud of. We are put and kept in a servile position by it. We are well advised to stay away from politics in general and The Government for sure. This has cemented citizens into overshoes of uninvolved pessimism, with no way forward. All we can do is to complain. The Government has become our scapegoat. Whether or not it was a planned plot, to divide and conquer, the effect has been to serve up voter suppression (only half of those eligible bother to vote) along with apathy, civic lethargy and institutional un-involvement in a stew of cynicism.

The few with the most are not a significant voting-block. They can't possibly win elections simply because there are ever fewer of them. Ever increasing concentration of wealth means there are fewer and fewer people with more and more Money. So, the fewer who vote, the better, because Money can more easily buy a majority of those fewer votes. Intended or not, what we have is control of government made easier for the few at the top. As campaign spending skyrockets, so does the proportion of all spending by the top 1% of the top 1% of the wealthiest Americans.

We propose a pair of paradigms to repair our republic, replacing "government is the problem" with: 1.) governing ourselves responsibly and as a consequence, 2.) we citizens are the bosses.

1.) New paradigm – Governing ourselves responsibly:

The concept is that governing is an ongoing process; *governing* not, The Government. It is about collaborative, cooperative, collective decision *making*. This is not hoping for a "responsive government", because that, again, implies that government is some sort of self-contained entity, from which you most hope for a response. The notion of a responsive government is better than "government is the problem", but it's hardly welcoming and inclusive. If we citizens are to be truly involved, it means that each of us has to become an integral part of the governing process, and feel a part of – not apart from. We must believe in our own individual abilities and talents in

terms of what each of us has to offer all of us. We don't have to wait for an authority figure to decide for us. Instead, we must realize that each of us has something unique and special to offer. Each with singular a perspective, and maybe even a little wisdom to share, to arrive at decisions for meeting our common needs. Each of us has a stake in our common good and mutual destiny. And, with this proposal (or something close to it) we will finally have a vehicle to express what individual contributions we can bring to the table.

As it is now, negative perceptions aside, it's difficult to get involved. There are institutional bars that hinder open participation. You have to become a member of one of only two parties. Each party with its own hierarchy and demand for loyalty. How can every individual fit into one of two boxes, or into *any* particular box on every single issue? It's a dehumanizing process and one that does not value individual talents.

Then, if you want to be taken seriously, you better have your checkbook at the ready. Better still, would be if you could be a fundraiser, collecting from others too. The more Money you raise the more your voice will be heard. Under the best of circumstances, by taking part in the Money chase, you will have compromised your principles, having made the bargain, "I'm only doing this for the cause, it's a necessary evil." Or, if you are figuring, "this is what I have to do to advance my political aspirations", then you have no morals to compromise in the first place and you will fit right in to the current scheme of things.

Governing ourselves responsibly presupposes taking greater individual responsibility. The mess in which we find ourselves, is in no small part due to our own civic negligence. We have let things slide. Complaining and protesting might have some utility as a pressure release mechanism but it is not governing. Blaming The Government for our problems is a bit like blaming the car for hitting the pedestrian in the crosswalk. We citizens are supposed to be behind the wheel. In fact, it is more like we are in the back seat dozing off while Money is in the front passenger's seat directing the majority party who is behind the wheel. And that pedestrian that we just hit? – that was our national pride.

2.) New paradigm -- We are the bosses:

The first three words of our Constitution are, "We the people". That means you and I are in charge and, it's high time we *take* the reins. But, Money and the parties aren't just going to hand them over to us. This will require our recognition that we are indeed the bosses of this nation. The people we elect are there to serve *us*. They are our *employees*. So, that means if you want to complain and whine about The Government, you'd better look in the mirror, because *you* would be in control if you would just acknowledge it.

This realization won't be as easy as just putting on a new hat. It could be argued we citizens have never abdicated our role as bosses because we never have assumed the role in the first place. The term, founding fathers, means we are derived from a paternalistic order. The signatories of our Constitution, were patricians all. They weren't about to institute a full-on democracy as the Athenians had during their Golden Age. Many of our rights were not granted by our founding fathers but had to be *taken* by our ancestors by way of constitutional

amendments, just as we are proposing here. (Please refer to Chapter 10. *They did it, and now, so must we*, for more.)

Once we wake up to the fact that we citizens already have the tools provided by our Constitution, and that all we have to do is use them, then with very little effort we can assume our rightful role as the bosses we are, and begin governing ourselves. The tough part will be waking up. Hopelessness is a powerful sedative.

Old paradigm, “Money is the lifeblood of politics”

“Money, money, money”, wrote Mitch McConnell, on a blackboard to open a college class on the three ingredients he felt were necessary to build a political party.¹²⁸ There is no question that Mitch had it right. There is a sense of inevitability about the nexus of Money and politics; that it is just the way it is. It’s a powerful paradigm, because it possesses all of the hallmarks of addiction – a social and political addiction. And, it is another very insistent paradigm we are going to have to lose in order to find our way to being a clean democratic republic.

A few years ago, I was with a few friends at one of those late summer, small town festivals (like a county fair, but smaller). They are usually named after what the town is known for, or a funny word play on the town’s name. I was sporting my NoMoneyElections.org T-shirt. Now please, don’t take this to mean, as some have accused me of being “motivated because you have a passion for this proposal”. Wrong. It’s a sense of responsibility or duty – not a passion. At the festival, we were passing by a few large, red-faced men, one of whom loudly malt-beveraged, “No Money Elections!?! Haha. That’s kinda like no corruption politics!” “Bingo!” I shot back, as I gave him a thumbs up. As you might imagine, we all had a good laugh. Whether an unsmiling US Senator at a college seminar in Kentucky, or a happy-go lucky festival goer in a small town in Minnesota, we all get it. But, is this perceived inseparability of Money and politics, a paradigm so engrained that we can never shake loose from its harmful hold? Will we continue to submit ourselves to control by the amoral cravings of Money for the sake of nothing more, than ever more Money? Or, do we have the courage to drive a stake through vampirical lifeblood of politics paradigm and choose instead, the uplifting and affirming path to governing ourselves by way of our 28th amendment?

New paradigm -- Money is antithetical to democracy

It is considered an article of faith that in order to break an addiction you must first admit that you have a problem. We are all on board with the first step. Survey after survey produce the same results: an overwhelming majority of Americans (70 – 80%) recognize that our current system of campaign finance gives corporations and wealthy individuals unfair influence over our elected officials. That means we are ready to move on to understand the nature of our addiction to Money in our elections.

¹²⁸ Jane Mayer, *Dark Money*, page 234. Doubleday, 2016

Louis Brandeis, Supreme Court Justice from 1916 to 1939, wrote, “We must make our choice. We may have democracy or we may have wealth concentrated in the hands of a few, but we can’t have both.” We have made that choice. Allowing unlimited private expenditures to fund election campaigns has unquestionably resulted in even greater concentration of wealth. Exhibit A: the big Christmas gift, the tax cut which benefited the wealthiest most, which was signed into law on December 22nd of 2017. This clearly shows us that Money and democracy are antithetical. With this understanding of the nature and consequence of our addiction we can move on to end it. Just as with any addiction, abstinence is absolutely essential. It’s impossible to end alcoholism by limiting consumption to just a few drinks a day.

Money in our elections is no different. Restricting “Big Money” while allowing small contributions doesn’t work...we have tried that route for over a century and look where it got us.

Old paradigm, “Change is impossible – nothing ever changes – what I do makes no difference”

This sense of hopelessness alongside political helplessness is the most vexing and seemingly intractable of our poisonous paradigms. Pessimism is self-perpetuating. Negativity is a highly contagious social disease. We become imprisoned by hopelessness -- paralyzed by enervating unhappiness and sense of foreboding. Then paranoia takes hold and, violence follows like a secondary infection. Nazis come out of the woodwork and into our streets. Guns are everywhere. Murder. Suicide. Homelessness. Addiction. Obesity. Climate change. Global poisoning – payback time for all of those modern *advances*. Rigid caste/class divisions and justice denied along racial lines. Food deserts. Desperation driven migration. Segregation. Undereducation. Overpopulation. *Wealth concentration?*

This *is* the world we live in, isn’t it? It all seems so overwhelming, as to preclude any attempt at improvement. Why even try? But, is it any easier to give up and hope total collapse is somehow staved off until your children, grandchildren, great grandchildren and theirs die? (after that who cares, right?) Is this any way to live? Is avoidance and escapism a viable strategy?

I vividly recall the inevitable conversations in 1974 about what had happened in the Schwabing neighborhood I was living in at the time (in Munich, Germany), just 36 years earlier. Schwabing had a large Jewish minority population in the 1930s of about a third, when Kristallnacht happened (a nighttime of smashing Jewish owned business shop windows). Usually there was some astonishment and horror as the seniors I was talking with, who had been of adult age during *die Hitlerzeit* (the Nazi era) emotionally explained what it had been like – “It was awful but, we never thought it would end as it did.” Most often, this was followed by a nervous pause and, an unprompted, embarrassed, recitation of the clichéd, “I am just one person, what could I have done?”, attempt at an excuse. You could feel the anguish of guilt and self-condemnation.

If we can learn anything from the German experience, it is that avoidance; hoping our problems will just somehow take care of themselves, is not an option. Our problems will only worsen by ignoring them. How do you think reprising the excuse, “I am just one person, what could I have done?” will play with your own grandchildren? Perhaps now is a good time to pile on the guilt

with Edmund Burke's famous, "The only thing necessary for evil to triumph is for good people to do nothing."¹²⁹

How many times haven't you heard the conventional wisdom that, "Things have to get really bad before people will be open to change"? Or, perhaps more appropriate to our current political crisis is Winston Churchill's famous, "You can always count on Americans to do the right thing – after they have exhausted all other possibilities." We have tried many ways to end the corrupting influence of Money in our elections for 112 years (since TR signed the Tillman Act into Law in 1907).

It is precisely Money in our elections, that is the cause of our political paralysis. Here is a bit of anecdotal evidence to back up this assertion. At my suggestion our book club read Jane Mayer's *Dark Money* (referenced numerous times in this book). My assumption was that this group would respond with indignation at the grievous abuse of the tax-free status for the organizations the Koch Brothers and their Koch-Conspirators set up to funnel Money to candidates and to lobby for legislation they favor to the tune of billions of dollars. Instead, the more typical reaction was that of one member, for whom Mayer's book was overwhelming and made her feel hopeless about our political system and indeed about the state of our culture, much less being able to change it for the better. After having read only 137 pages of the 378-page book she had to quit – she'd had enough already. In fact, only one member of our club, other than myself, had read the book to the end. One of the problems with much of the literature on this topic is that although the problems are very well stated, very little is offered in the way of potential solutions. So naturally, people are left feeling deflated. Where's the hope?

New paradigm – hope through purpose:

You could say we have hit political rock-bottom. We have reached the point where we have no choice but to look for a solution to our crisis. We have arrived at our quintessentially American moment to finally do the right thing. Most of us understand that a positive attitude is necessary for a productive and fruitful life. We try to conduct our personal lives accordingly -- always seeking to "stay positive" -- striving for a better way forward. Why then, do we allow ourselves to fall into the trap of a negative mindset concerning our government and thereby casting a pall over everything, including doubt about our children's future? Why shouldn't we instead strive for a positive collective spirit and make our common purpose a way of governing worthy of our pride?

Finally, and most importantly, finding a common national sense of purpose is what we need to pull us together, give us hope and make it possible to meet our challenges. Purpose not as a goal but as a commitment to a process. A way of life. A way of governing. One that is built on our governing principles of equality, fair treatment, freedom of speech and requires all of us to feel that we are part of the larger purpose -- the process of self-governing. Last year my brother visited with his neighbors to explain the proposed amendment. As he was leaving their response was to thank him for "giving us hope". If this proposal strikes you similarly, the next step is the

¹²⁹ Note: This is a paraphrase of the original, "...for good *men*..", not: "...for good *people* to do nothing" as we chose to alter it.

surprisingly simple act of petitioning your state legislators. Coaching is available in our next Chapter 12: *It's up to you -- Handbook for Action.*

CHAPTER 12

IT'S UP TO YOU

Handbook for Action

About 2 hours. That is the maximum amount of time you would devote to help make this proposal, or something close to it (or something better) an amendment to begin governing ourselves responsibly, with integrity and worthy of our pride. A quantum leap for democracy for two hours of your time?

The catch is, as there always is, it has to catch on. It will only happen if enough others are also so motivated and take this simple action. That, of course, is entirely up to you and I. At a minimum, it would take a few good people, to reach out to their elected representatives in their state legislatures and discuss the proposal by physically handing their petition to one or both of their reps. If that seems like too much effort, or if you very shy, then merely mailing your petition to both of your reps (usually a lower house representative and an upper house Senator) in your state legislature, would nicely reaffirm the effort of your neighbors, who make the effort to meet with one or both of your representatives.

This is a truly grassroots, all volunteer, nearly costless path to an amendment through your state legislature – by following the template laid out by our ancestors in 1913 to give themselves a direct vote for US Senator with our 17th Amendment. This is discussed more thoroughly in the chapter, *They did it, and now, so must we* – or, see the *Petition* page on the NME website, scroll down the page and click on: *For more Information visit this link.*> A new page, entitled *Constitutional Tools* will appear. At the bottom of that page click on the link entitled,> *They did it, and now, so must we.*

Mailing your petition is made easy by printing it from the NoMoneyElections.org website. While there you may also find the address and contact info for your state reps, by using the link furnished by the League of Women Voters (LWV.org), which will provide you that info pronto. You could also use that contact information to set up a meeting with one or both of your reps. Nothing says you mean it like a face-to-face meeting. Fortunately, we have in our First Amendment a powerful tool, our Petition Clause, which compels our elected representatives to take petitions from their constituents. Your elected representatives at your state capital live close by, by design – *they are your neighbors* and, as it happens, the appropriate elected official to whom you direct your petition in this context.

In very sparsely populated areas, like mine, representatives and their constituents commonly split the commute, so neither has to drive too far to meet. For my meeting, I merely called my rep's administrative assistant, whose contact info was published on the LWV site. The administrative assistant turned out not only to be helpful but cheerful as well, and was only too happy to set up

the meeting. There was another call to confirm the scheduling after consulting calendars. The time it took to set up the meeting and confirm was no more than 30 minutes. My commute to meet my rep at an approximate halfway point (as I said, in this very rural district) was about 30 minutes as well. The meeting itself clocked in at 27 minutes. The return trip took another 30 minutes. In just under 2 hours, plus gas money; mission accomplished. I had done my part to save our democracy.

There is one very important last step. Whether you meet with your rep to hand her your petition or, you merely mail your petition, make sure that you e-mail your rep's office through the official state legislature web-page designated for your rep, to ask for confirmation that your petition has been received. This way there is a record of your petition. Your rep may wish to refer to the number of petitions received to justify her supporting and voting for the resolution. Conversely, suppose your rep does not agree with the proposal (maybe she likes asking for campaign money or, sees being a prolific fund raiser, as some do, as a path to advance her career and maybe land that high paying lobbying job after she is out of office). Then, through the freedom of information act, you could see how many of her constituents had actually petitioned her, recorded in her official e-mail account, which is public information.

Back to my first encounter. The meeting itself, at a cafe, was very congenial and pleasant. I handed my then state House representative my petition and let him read it while I waited. He had some questions (*more on this below*) which I did my best to answer. I merely stated that, with my petition, I was expressing my desire for him to act in accordance with the petition. He was very supportive and said he would indeed, if re-elected, take up the matter and he even suggested sharing it with a particular senior colleague in the House who was a longtime strong advocate for campaign finance reform.

Another way to move this forward is to lead by example. We propose to video citizens meeting with their state rep(s) and posting the videos on social media with links to our website. Or, perhaps people will want to record their meeting themselves. Real citizens, not actors, meeting with their actual representatives will be inspiring; as if to say, "Now *this* is what democracy looks like", a calm, congenial conversation, neighbor-to-neighbor, about a specific proposal. Others viewing the videos will be able to see how simple, straightforward, interesting and, (who knows?) maybe even fun it can be. The idea is that this will encourage others to follow suit, or at least, mail in their petitions. The hope is for it to thus, "catch on". This is just a suggestion of how it might go. There are myriad pathways possible.

The purpose of this chapter, is to request that you also take it upon yourself, to lead in such a way, with your example, by taking this action. You may also choose to meet and discuss this proposed 28th Amendment with your rep, take some notes and send them along to me so that I may include them in this very chapter. Or, with a video or audio recording and/or written text contributions which could also be included in this chapter. This way, the compilation will inevitably bring new thoughts, perspectives, opinions and ideas for improvements to form a sort of organic collaboration – a collective conversation.

EXAMPLES:

Example 1.

In this first attempt, I referred to above, I tried out the concept with a “test run”, long before I came up with the idea of a video recording. There is almost a moral imperative that requires an inventor to test her invention personally. You must be able to use your creation yourself -- to see if it really works (potentially dangerous?). In product development it’s called “proof-of-concept” testing. My state House representative at the time, Joe Radinovich, was in his first term. It was late August and he was running for re-election against the same opponent he had narrowly defeated almost 2 years earlier. He readily admitted to hate being forced to raise money. He said, like many or most elected office holders, he considered it a huge distraction and, demeaning to boot. But nevertheless, he was resigned to his fate: a necessary evil, part of the game and something you just have to put up with.

He was quick to point out that, then nearing the completion of his first two-year term, not once had another constituent come to him about the need to address campaign finance reform.¹³⁰ Besides, he asked, since the Supreme Court’s *Citizens United* decision, what role could there be for the state legislature to play, since a constitutional amendment would now be required to essentially overrule *Citizens* and, *that* requires a two-thirds vote by both houses of Congress, wouldn’t it?

I pointed out that the petition I had just handed him, referred to the provision of Article V allowing “Application” by 2/3 of state legislatures upon Congress to call a convention for proposing [an] amendment(s). That’s how our [great] grandparents got the right to vote directly for their senators – by employing this constitutional tool. It gives the people leverage. Congress will cede to the peoples’ wishes before a new constitutional convention (heaven forbid) could occur. For more on this go back to *They did it, and now, so must we*. Call it George Mason’s Article V curve-ball. Call it what you will; it was a tool of leverage that delivered when Congress was unable. We need pick it up and threaten to throw it again. And, don’t be fooled by “runaway convention” nonsense, as a reason we shouldn’t employ Mason’s *Applications* (again this is thoroughly discussed in *They did it, and now, so must we*).

Furthermore, just envision the two of us sitting at a table, at a rural crossroads café in Malmo, Minnesota, discussing this constitutional amendment proposal, using the Madisonian First Amendment petition clause, and “Mason’s [not so] little gift” to get what we need, what all nations need, which is to eliminate money from elections entirely, inform voters with public

¹³⁰ Joe lost the aforementioned election to his previous rival. But he continued in politics, serving US Congressman, Rick Nolan, in Minnesota’s 8th Congressional District. And later, after Nolan’s surprise resignation, Joe ran for that office pretty much dutifully carrying the national party message. Which included railing against Big Money in politics. During the campaign Joe said, “I recently earned the endorsement of End Citizens United (itself a PAC) because I’ve made removing dark money from our campaigns a focal point of my campaign.” Unfortunately, Joe was not elected in his 2018 bid for US Congress.

election forums and select our candidates by non-partisan citizen interviews, so we have a chance to govern ourselves responsibly.

Joe asked what role parties would play? “Wouldn’t this mean the end of two-party system?” Some folks are scared by the notion of governing without parties...it would be sooo different. Others, myself included, see it as a good thing -- an incalculably good thing. Funny thing, if you could ask them, the Founders would agree, unanimously. Witness their writings and quotes discussed in our chapter, *Party Problem*. Yeah, they themselves fell prey to base party instincts, starkly at odds with their own admonishments against them, and actually formed parties and factions of their own. It could be argued that is because they had failed to provide the means for candidate selection and voter information in Article IV. But that doesn’t mean we can’t correct their error of omission, does it?

I responded that we weren’t suggesting that parties should be banned. Maybe since they would be freed from the heavy burden -- the double-yoke -- of choosing our candidates *and* raising money, parties could engage in ideas, policy proposals and other topics for discussions – sort of like book clubs, I mused.

Joe considered the paper petition on the table before him as our conversation drew to a close. “What should I do with this?” he asked.

“Is it that the first exercise of the First Amendment right to petition the government clause guarantee, as authored by James Madison, you’ve ever received?”

“It *is*.”

“Then, you should frame it!”

He got a good laugh out of that. Then I went into the rationale for keeping a count of the petitions he received if he wanted to explain or justify his support and vote as per the petition itself.

Example 2.

The next meeting took place on a below zero for a *high* temp January day in the now famous Finnish Bistro on Como Avenue in the extreme northwest corner of St. Paul, kitty-corner from a prominently perched, large arch-windowed Carnegie Library in the toney Saint Anthony Park neighborhood. Kate Thompson, set up the meeting with her state legislature House Representative, Alice Hausman. Unbeknownst to Kate, Alice had chosen to include another advocate for election reform to the discussion. Here I must apologize because, the setting – a high traffic, noisy and clattery bistro was not exactly conducive to recording a conversation. Was everybody there to get out of the cold?

It became slapstick comedy when suddenly, the already crowded bistro was inundated by a tide of Minnesota Large, bulky quilt-clad, customers. The setting became, at best, a disaster zone for our first attempt at making a video of the consummation of democratic aspiration. At first, I tried ushering folks around what turned out to be a hard aisle to hot food. No use. Of course,

our cameras and mikes were cut off by big bulky-clothed bodies, repeatedly. So, it was pretty much pre-edited into incoherence.

I assume that Representative Hausman had arranged the meeting to get two views simultaneously for comparisons sake. There they were, the three of them earnestly, on that ultra-frigid January afternoon, talking about the need to rid our political campaigns of money. And, more importantly, how to go about it. If you watch the highly edited version we were able to salvage from the meeting you can discern the contrast in approaches to solving the problem.

[Fred?] the advocate for incrementally reforming campaign finance from a PAC lobbying for incrementally reforming campaign finance, launched on a monologue. There are lots of these PACs -- at least one for every last constituency that might be "monetizable" via donations. I've tried to communicate with many of these entities without donating first. Didn't get to first. Donation nation. It's an industry. But, (I think his name was Fred) the advocate, illustrates the overwhelming interest in "doing something" about "Big Money" campaign cash corruption. By looking at (if) many of these groups actually have published proposals one sees, mostly, that there is no *there*, there -- other than some posturing. Or, are they merely naïve and entirely unaware of the 120 years or so of futile efforts to "limit" campaign spending? That their scant proposals for action is any indicator, it seems they are out to raise money to reduce campaign spending without one iota of irony. It's no different than any other "cause". You *gotta* raise money. It's scam-prone territory. They do raise and spend a lot *and* get volunteers like [Fred] here, who seemed to be quite animated in the bistro and sort of hogged the camera, while Alice and Kate couldn't get a word in edgewise.

Kate confessed afterwards that she was peeved with Representative Hausman because the arrangement had been for a one-on-one meeting. She conveyed frustration by the difficulty to even get a word out. ([Fred] had basically filibustered the poor ladies for way too long.)

The quantum leap for democracy fell a bit short at the Finnish Bistro.

It got so stuffy in the 'stro, so I had to go. As if on que, the "film crew" comprising my brother and our good friend, Tom, motioned in unison the universal quick neck slice and bolted. Being blasted by the sub-zero air actually felt good in comparison to enduring the hot flop inside. We parted quickly, each to our own vehicle. As I waited outside my vehicle a bit for it to warm up enough so the windows wouldn't fog from my breath, I started to feel a guilty about leaving Kate to be tortured by filibuster. Just as I got back into the car I saw Kate fleeing the 'stro. I beeped and parked in the fortuitously open parking place in front of her. She got in and I listened. No video, just my memory of her rant:

One word, *frustrated*, described her reaction: What will it take to get the word out? Why can't we just make it go viral, somehow? And, what about these other funded entities, like [Fred]'s, aren't they basically advocating or lobbying. Will we be forced to raise money too? Is it unrealistic to expect that the strength of the idea can be spread without money?

Attempting a philosophically positive spin, I offered that it was remarkable that the conversation took place at all. It shows people want a solution.

In contrast to all other groups working for campaign finance “reform”, No Money Elections means *no* money. As in *zero*. You can’t cheat zero. In this book we have gone to great lengths to argue why it must be zero, nothing else will work in principle or, in practice. True democracy requires it. We *can* do this, but will we? It could be just this easy, as this meeting *did* illustrate, to bring it into broader consciousness. Sure, we didn’t get good a compelling video to go with this particular experience, but just that it occurred shows it can be done. And that is proof of concept. Thank you for your initiative Kate. You arranged the meeting. It did take place. Maybe it was a flop as a video, ok, and again I’m sorry it wasn’t the fun, exhilarating declaration of democratic evolution we might have hoped for but, thank you for enduring it nonetheless. The freakishly busy bistro was a fluke. It could also just as well have turned out to have been dynamite without [Fred]’s mansplaining, and had the place been quiet, as one would assume in the middle of the afternoon, mid-week, when it was as cold as hell. (Yeah, we actually say that in Minnesota.) So, it wasn’t all good, but in the very first filming of a meeting we learned a whole lot of what not to do next time. C’est le Vie.

Example 3.

On Wednesday, February 13, 2019, Mr. Elliot Wilcox, (Elliot) met with his State Senator, Mr. Charles Wiger, (Chuck) in Senator Wiger’s office in the new Minnesota State Senate Office Building just northwest of the State Capitol Building. The gentlemen discussed the topic of Money in politics in general and the No Money Elections proposal specifically, as Elliot presented his signed No Money Elections petition and proposed constitutional amendment to Chuck. The recorded conversation lasted just over 22 minutes.

Elliot is a music professor and Fine Arts Chair at nearby Century College. He is also a classical pianist and, conductor. He had served as the president of the local chapter of the Minnesota State Faculty Association from 2009-2012. Other than that experience, Elliot could not be described as an issue advocate, party nor political activist. Chuck, besides serving in the Minnesota Senate for over 20 years at this point, has been a life-long public servant, serving on numerous commissions and boards since 1973. He is also an attorney and writer.

Elliot began the conversation by thanking his Senator for taking the time to meet. He expressed his view that the proposal for No Money Elections was a very big concept in that it was quite detailed and would have an impact on elections, campaigns and elected office holders at all levels with a new structure for campaigning. Elliot went on to say he preferred to frame the concept of using his signed petition to initiate action which would ultimately culminate with our 28th Amendment to create No Money Elections as, “Think big -- act small.” (Referring again to the concept as large and detailed, but that its implementation calls for grassroots action).

Elliot also framed the conversation by a series of questions or topics he asked his Senator to talk about. You could say Professor Wilcox employed the method of Socratic Questioning to better our understanding of this proposal. First, he asked Chuck to talk about his views on the role of Money in our election campaigns from his perspective in the State Senate and from his personal experience, particularly to the challenges the he had seen over the years.

Chuck didn't hesitate at all, he started with "Money has too much influence and impact on our elections and that was clearly not the intent of the Framers [of the Constitution]." He noted that it was at its worst at the national level, of course, where the amounts raised were, "Incredible!", where it requires of all Members of Congress a daily routine of dialing for dollars and hiring people exclusively devoted to fundraising. He was quick to add that campaign expenditures at the state level have also risen dramatically over the years, particularly in the amount of outside Money being spent, especially on those races considered competitive. Chuck observed that in those races, outside groups fund a constant barrage of messaging. Throughout his comments the Senator lamented that all of this Money, though regrettable, was nonetheless necessary with the repeated refrain, "to get the message out".

Chuck explained that most legislators (himself included) accept contribution and expenditure limits. Reports are published by the Minnesota Campaign Finance Board. But it is voluntary, "you could, in the context of your First Amendment rights, waive those limits." And, through various sources, raise Money and spend without limits. He cited President Obama's first campaign for President when he blew past contribution limits, thus disqualifying his campaign from receiving public matching funds. To sum it up, Chuck threw up his hands rhetorically, "There is just way too much Money involved."

To follow-up on that comment, Elliot wondered if the need to raise Money for re-election had become a distraction to day-to-day work of the office-holders and staff? In response Chuck admitted, that if you are facing reelection you will simply have to devote some time to raising the funds necessary to getting your message out to your constituents if you hope to be reelected. There are some restrictions he highlighted: a legislator must not solicit contributions from lobbyists or PACs while the legislature is in session (generally from late January/early February until Memorial Day in Minnesota). There are significant penalties for violations. Even though private contributions may still be accepted at any time, generally most of the active fundraising is not conducted while the legislature is in session. Still, he continued, there is a great deal of Money raised and spent in every election cycle to get the message out. Some of that Money, particularly in districts with tight races, is spent on negative advertising. "It's a turn-off for a lot of voters. But, it can impact 1 or 2% and, a lot of elections turn on 1 or 2%. So, that's why they do it."

At this point Elliot asked to flip the perspective to the voters, he asked for Chuck's thoughts on how, "Money in campaigns effects voters' views".

Chuck was unequivocal, "I think most, not all, but most voters would be supportive of putting further restrictions on how much Money is spent. It's mostly been the Court that has intervened with decisions in the name of the First Amendment, which also you are asking to put restrictions on. So, we would have to amend our Constitution, which you have elaborated on here, as well as some additional legislative acts. But, I believe most people would be very supportive."

Here Elliot picked up on the theme he started with, "Think big, act small – grassroots. Do you have any thoughts about the value of grassroots, I'm guessing you do, about the value of grassroots efforts in these United States both locally and at larger levels as it builds?"

“Pop ups – grassroots – it’s how any movement gets started. It can be one or two people talking and then capturing the support of additional people, igniting enthusiasm. There’s that famous Margaret Mead quote...” [“Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it’s the only thing that ever has.”]. The two discussed the value of grassroots movements from all across the political spectrum that make up the whole of our democracy and the need to respect different points of view and to make a sincere effort to understand the motivations of those with different views.

Elliot acknowledged that the No Money Elections proposal was rather comprehensive. Chuck, with the Senate session underway, wouldn’t have been expected to have dissected every detail. The petition is merely an outline of the proposed amendment. So, Elliot asked Chuck if there was anything in the spirit of the petition that resonated with him.

Chuck’s response, “I like the idea of limiting campaign expenditures,” but, he followed quickly with a number of concerns and questions. That he had all the right questions at the ready, showed not only his experience but that he is a quick study, as he astutely enumerated them for Elliot. If Chuck had time to read the proposed amendment itself and, all of the material included in the NoMoneyElections.org website, then many of his initial questions would have been answered.

Chuck was concerned that an outright prohibition of all campaign expenditures would prevent or at least hinder candidates from, “getting their message out”. He reiterated at another point in the conversation, apologizing for the status quo, “For those of us that are in office, and we want to continue -- to the extent that we don’t play by the existing rules -- which allow us to raise money, we risk not being reelected if we don’t get our message out...I will raise the funds if I have to, knowing that it goes to messaging. And that is what we do.” As it is described in the NME website, the Election Forum was designed to make getting the message out, that most basic and fundamental task for any campaign much easier, *and* provide equal opportunity -- a level playing field for all candidates at no cost to the candidates themselves.

Chuck was concerned about how voters would be able access the candidates’ messages. “It won’t be possible for everyone to attend town hall meetings.” The answer of course, again: The Election Forum. All Election Forum events will be recorded and available in multiple formats. And, it’s not just for the candidates to get their message out. It plays the dual role for voters, not only to have ready access to the message/information but, to give every citizen a soap box of their own -- without needing a Money megaphone to be heard. Every citizen will have an equal voice with equal access to the Election Forum to share their views. Think of it as truly public social media for election related communication -- without the shenanigans. The same will hold true of the Legislative Forum.

Later, Senator Wiger expressed a similar view that a prohibition of campaign expenditures might somehow impinge upon the ability of groups to organize and express their mutual concerns and needs. Here too, the Election and Legislative Forums would allow the voices of all citizens to be heard, without having to raise money as a prerequisite. The intended consequence of the Forums is to strengthen the First Amendment by not allowing Money to abridge speech.

He also worried that the organization of the legislative process, which now is entirely dependent on party representation would be lost if candidates were selected through nonpartisan peer group interviews. Elliot interjected that although the role of parties would likely change with No Money Elections, parties wouldn't [nor could they] be banned, just the Money would. As to Chuck's assertion that the party system is necessary for the structure and organization of the legislative process as it *now* functions – is absolutely correct. For instance, party membership and which party holds the majority (even if by only one Member) determines everything: from leadership positions, to the committees' make-up, to setting the agenda. But, the influence the parties have in setting the legislative agenda is not set out in our constitutions.

The Constitution of the State of Minnesota and, all the other 49 states follow the example of the Constitution of the United States: in Article I., Section 5., "Each House may determine the Rules of its proceedings...". In Minnesota's Constitution, Article IV. Section 7., the wording is precisely the same. Parties are not mentioned.

That parties and party membership now completely determine the rules of the legislative process, "was clearly not the intent of the Framers" (to borrow Chuck's first comment of the conversation). It is our assertion that party membership should not determine the rules for the proceedings of our legislative Houses. After all, the Bill of Rights, perhaps our greatest Congressional achievement, was created under rules determined for the proceedings by our First Congress – before formal party membership even existed (or maybe *because* it preceded the parties' control of Congress is what made it possible).

"There is one thing I have to add, as we wrap this up." Elliot continued, "And, that is I so appreciate the fact that we are having this conversation. I have been excited about this for a week knowing that it was going to happen... And, this is new territory for me as one of your constituents and as a citizen. So, I want to thank you for that." Staying true to the Socratic method, the Professor asked, "Perhaps you have a final thought or two about this process here or the petition in particular, anything you might want to add?"

"Right in the Bill of Rights in the First Amendment is your right to petition, so thank you. I think we'll have you date it too, for February 13, 2019. I'll further review it." Senator Wiger then suggested that it would be good to contact State Senator John Marty, noting he has been very active on this theme, and Minnesota Secretary of State Steve Simon to get their views on this. And, to hear what they have to say. "The amount of Money impacting our elections is out of control..."

To illustrate that these conversations can live up to the promise of being interesting and, (who knows?) even fun: at Chuck's request to play something on the grand piano in the lobby, Elliot chose and played pieces by Scarlatti and Joplin before he departed.

Some weeks later, Elliot asked that his reflections on his meeting with Chuck be included in this synopsis. By taking this simple action, of meeting with his State Senator and, handing his signed petition to him, it gave Elliot a feeling of being empowered. He felt he had taken a positive step by contributing what he could that it might inspire others to act as well.

It takes one person to act first for a movement to begin. Will you join Elliot and be the first person in your circle to act?

Could your effort really make a difference? We won't know unless we try. Even the seeming flop as a video was a success in that the meeting actually happened. It may seem a small and inconsequential act. But, then everything has to start someplace, possibly making your simple action the spark that starts a political evolution.

Example 4.

After a brief visit with down town Fort Pierce's resident peacock population, Hazel Perez, and I, with clip-boards in hand, both identifying ourselves by wearing NoMoneyElections.org T-shirts, went out and spoke with residents in the open-air, in their yards, on porches, and in their homes. We invited them to consider and sign two separate petitions: 1.) petitioning their state representative to call for a resolution by the state legislature to apply to Congress to convene a constitutional convention *specifically* to propose No Money Elections -- our 28th Amendment; and, 2.) petitioning their US House Representative to call for a resolution to authorize the House Judiciary Committee to investigate each item on a list of the top 9 possible impeachable offenses committed by Donald Trump. This, our first outing, lasted about 2 ½ hours on a Saturday afternoon in early March of 2019.

I greeted folks by offering my hand and saying we (pointing over to Hazel if she happened to be in view across the street) were out in the neighborhood, not asking for money, but for their signatures on the two petitions described above. I tried to keep the message simple, and encouraged questions. Some engaged in discussion. There was nearly unanimous signing by the people we offered the petition to.

Hazel had suggested the idea of testing petitioning drives. Her thought was that going to meetings with her representatives in the Florida State Legislature would have greater impact with a handful of petitions signed by the representatives' constituents. She also specifically wanted to meet with Florida House Representative, Delores Hogan Johnson, because Hazel's work as a child family therapist within the district gave her a particular understanding and affinity for the community she served there. Our first attempt turned out just as Hazel had predicted. Her two-word appraisal: very positive. Almost everyone was onboard, enthusiastically, and without reservation. Some folks thanked us and offered us a seat while we chatted. One couple gave us ice-cold bottled water. The palpable disdain everyone expressed for Money and its current #1 tool, DT, was out in the open. There were a few folks, mostly immigrants, who knew little English, and understandably declined to sign the petition, not wanting to sign what they didn't fully comprehend, obviously. Or, were they frightened it might get them deported?

The Florida House District Representative for the district was newly elected in 2018. Delores Hogan Johnson is one of those rare gems.¹³¹ Recently retired and approaching 70, but not content to “slow down” and “enjoy retirement”, with so many so many pressing needs unmet. For those few like her, with the benefit of accumulated wisdom, now is the time for much more positive work for the common good to offer the world, even after having worked for 3 decades counseling in Fort Pierce public schools, and also, as the Academic Counselor at Indian River State College. She was instrumental in establishing the County Waterfront Council and she is a strong advocate for water quality. (Or as I prefer to say -- she is, as am I -- dedicated to ending water abuse.)

To Hazel and I, Delores possessed all the ingredients we desire to pursue cultivating a connection as a collaborator. And, not for NME alone, but as a potentially in some way for our other pursuit, manufacturing and distribution of waterless toilets and urinals (the next project).

As my Mom would often say, “Go ahead and make your plans, but life *will* intervene.” Suffice it to say that is exactly what has happened.

Connecting with your elected officials can require a little patience, and a little polite perseverance. Our representatives, particularly the good ones, can be inundated by requests. There was a miscommunication of some sort resulting in postponements and the clock ran out before Hazel had to depart for California for family imperatives. As soon as she is able she will contact Delores to discuss the No Money Elections petitions she left with the Representative’s assistant on the opposite coast.

As unfortunate as it was that this potentially propitious physical meeting couldn’t occur (for the foreseeable future, anyhow) there was also a positive lesson learned, thanks to Hazel. Simply canvassing neighborhoods, petitions in hand has real promise. It gets the word out very personally and effectively with very little expense. If you are so motivated your persuasive leverage when meeting/discussing/petitioning your representative is greatly enhanced with just a few hours of canvassing effort. And, it beautifully exemplifies the “now this is what democracy *should* look like; a conversation between neighbors” appeal this movement can have.

¹³¹ Note: Representative Johnson is an alumnus of Fisk University, which seems to have a singular history of producing people like Delores. Fisk counts among its notable alumni: W.E.B. DuBois, Ida B. Wells and John Lewis, to name just a few.

CHAPTER 13

WHILE WE ARE AT IT

Suggested Solutions to Other Obvious Problems

There is a real temptation to add solutions to other undemocratic manifestations of our political system to the amendment we propose. There is also the counter argument that what we offer is already too much to digest. The tension between keeping it simple, yet proscriptive enough to be effective, requires a careful balance. We thought the best approach would be to enumerate some of the most called for additions individually, to see what response each would elicit. Please remember, we encourage participation and collaboration at every turn of this project. Your input is not only valued; we view it as necessary. So, please let us know what you think.

1.) Gender equal prospective candidate list

This could be easily accomplished by adding a few words to the text of the proposed amendment. The last sentence of the first paragraph of Section 3., reads: The District Boards shall limit the number of prospective candidates interviewed to 10 of the most qualified for each office, based on review of their applications. To accomplish gender equality, it would instead read: The District Boards shall limit the number of prospective candidates to 10 of the most qualified for each office, ***with an equal number of each gender, whenever a sufficient number applicants of each gender allows***, based on review of their applications. This wording would accommodate occasions when there might be too few candidates of each gender identified to arrive at an equal number of each. Suppose there are only 7 candidates who apply, all of whom are women. Obviously, it would be impossible to accomplish a gender equal list in such a case. In any case, the slate of prospective candidates would still face public scrutiny, first by the peer-group interview process, then in the Election Forum for the primary and general elections.

The argument has been made that this addition is unnecessary because there is no legal barrier that prevents women from running for office. True. However, that does not mean there are not extra-legal impediments that make it difficult for women to run for office. The numbers prove that there certainly is inequality. If you recall from our *Global Problem* chapter, the US has an embarrassingly low percentage of women in Congress, *behind* Saudi Arabia in international ranking. This addition to the proposed amendment would immediately remedy the lack of equal opportunity that exists for women to seek elected office. What would it hurt to include this provision in the amendment? What possible argument could there be against its inclusion? What do you think? Clearly, opportunities are not equal: women are *still* paid less, are victims of crime much more often, while committing far fewer crimes themselves, women are way more often the single parent and head of the household, and they give birth. Although we can't do anything about sharing the last burden equally, we *can and should* provide equal opportunity. If

we consider our nation to be just, then we must. There is no quicker and surer route to equality than by making governing co-equal. Again, what argument could be made against it?

2.) End gerrymandering

Gerrymandering is one of the most undemocratic features of the constitutionally unauthorized *Too Big Party system*. The difficulties and conflicts that arise from our constitutionally mandated reapportionment of US Congressional districts and redistricting of state legislative districts could be resolved by inserting into our existing proposed Amendment at the end of the first paragraph of Section 3., the following final sentence: ***The District Boards of each state shall oversee reapportionment of the United States Congressional Districts and redistricting of Legislative Districts in their state into algorithmically optimized even-sided rectilinear shapes.***

This would put an end to the endless decennial disputes that often result in robbing many citizens of equal representation, if their party just so happens to be in the minority at the beginning of each decade. As we mentioned in our *Party Problem* chapter, this is a very serious perennial problem in search of a permanent solution. Similar to our suggestion for gender equality in selecting prospective candidates for elected office, it would be an easy fit into the existing proposal. Or, it could stand as a separate amendment. Either way, it is a problem whose very nature contributes to the mistrust of our government that manifests itself in suppressed voter turnout and lack of participation and involvement by many of our fellow Americans. Again, please contact us through our website to give us your thoughts.

The following two points may or may not also fall under the general category of those requiring a constitutional amendment solution. A Congressional Act may suffice. And, unlike the two previous suggestions, they wouldn't easily be tucked under the purview of the Office for Voter Information District Boards and should probably best be proposed individually. We may want to start thinking of proposing the following as a group, similar to the Bill of Rights or, as the "Voting Rights Amendments" or maybe "Free and Fair Elections Amendments".

3.) Universal voter registration and right to vote

Make it easy, secure and life-long. Every voter will have one number that will reside in a single national data base, which could be instantaneously cross-referenced when the vote is counted. This would virtually eliminate fraudulent voting because attempts (if any) would be detected immediately, making enforcement quick and sure.

4.) Universal vote by mail

Make it as easy, convenient and secure as possible. Paper can't be hacked. Multiple copies, including one for the voter would produce one irrefutable count. Audits and recounts would be substantially easier to conduct.

Sorry folks, this has been my hobby horse for too long. It's so simple. Are we not one nation? Let's make this uniform and universal across the nation. Consider all of the unnecessary

difficulties and costs such as, voting machine malfunctions, including chicanery and hackery; standing in long lines; suffering through bad weather; interrupting work; babysitting for young ones; burdening elderly and disabled people; driving long miles in rural areas; voting by absentee ballot hassles; and hanging chads. Why not make voting more convenient and less costly?

I live in a very sparsely populated area, where it was determined over a decade ago that the costs of maintaining physical polling stations to serve a handful of voters in areas like mine were just too high to justify. So, vote by mail was instituted. Everyone loves it. It's not only incomparably more convenient for voters, it's cheaper. And, it saves fuel. After all, the mail is delivered and picked-up every day anyhow. The same holds true for urban areas. A study conducted by Pew Research of Colorado's 2016 elections showed that the election costs were reduced by 40% since Vote-at-home (VAH) went into effect in that state. Other studies have shown that the voter turnout in the three 100% VAH states of Colorado, Oregon and Washington (of 81.62%) are significantly higher than all other states, and even than those states that allow same day registration, early voting and no-excuse absentee ballots. The main finding is that vote by mail (VBM), or VAH if you prefer, increases turnout in all cases, in all precincts and in all elections in which it is available.¹³²

One argument that is often made against VBM/VAH is that members of a household might be coerced or intimidated into voting (or not voting) according to the coercer's wishes. There is a law (18 U.S. Code, paragraph 594) that makes voter intimidation or coercion (and even its attempt) a federal criminal offense. Sure, this may not prevent voter coercion, just as any number of laws don't prevent crimes from being committed. But that doesn't mean we should abandon laws. Nor does it prevent mean, old, intimidating and coercive Grandpa from trying to bully his offspring into voting as he wants them to, down at the polling station in a quasi-private booth, under the existing voting laws either. Furthermore, even if there are such cases of coercion, does that justify making a frail elderly person wait in a long line in a cold November rain, only to have her be asked to produce an approved photo ID, which she does not have?

The numbers don't lie. There are very few instances of fraudulent voting reported. However, there are many complaints of arbitrary and arcane registration requirements, such as proof residence, photo ID, and partisan "poll watching" that can have an intimidating effect resulting in fewer votes cast by the target group of such intimidation. Low voter turnout numbers are indisputable and the cause for real concern. Universal registration and right to vote, along with VBM/VAH have shown to increase voting and should be adopted nationwide. Thirteen states have already adopted some form of universal or automatic registration. Twenty more states have introduced similar legislation.¹³³

The Oregon US Congressional Delegation (both Senators and House Representatives) introduced in both Houses the, *Vote by Mail Act of 2017*, which is summarized by the authors as follows:

"Building on the innovative electoral reforms being implemented in Oregon, this bill would amend the *Help America Vote Act of 2002* to require states to mail ballots to all eligible voters in Federal elections at least two weeks before the election. Every registered

¹³² David Roberts, *The Simple Voting Reform That Works Wherever It's Tried*, VOX, May, 24, 2018

¹³³ *Automatic Voter Registration*, Brennan Center for Justice, July 24, 2018

American voter would then have the ability to return their ballots through the mail, using postage prepaid envelopes, or drop them off at predetermined drop-off locations. This bill also updates the National Voting Registration Act of 1993 to shift the burden of registration from the individual to the government. It calls on state governments to collaborate with state motor vehicle agencies to maintain updated voter registration rolls for all citizens who apply for a driver's license and who do not ask to remain unregistered.”

As this proposed legislation illustrates, VBM and universal registration could be brought to fruition by an Act of Congress, without going through the lengths required of amending the constitution. This does not, however, mean that a constitutional amendment would not be preferable and, yet another deplorable decision by the Roberts Five shows why.

The Voting Rights Act of 1965 swept away much of the racist shenanigans aimed to suppress voting and disenfranchise minority voters. Then, in the case of *Shelby County v. Holder* the Roberts Five decided in 2013, to strike down a key provision of the Voting Rights Act, which required that certain states with a history of disenfranchising minority voters to obtain “preclearance” for any contemplated voting legislation by the US Department of Justice.¹³⁴ Just as many critics of the Roberts Five *Shelby County* decision predicted, legislative disenfranchisement schemes popped up almost immediately, particularly in those states that had been under the Voting Rights Act pre-clearance mandate. If basic voting rights were enshrined in our Constitution (as they are in every other constitutional democracy, by the way) with a constitutional amendment assuring universal registration and voting by mail, then we wouldn't have to repeat the same battles with the same elements in our society who are fearful of free and fair elections. What, exactly, are they afraid of? Do they feel the only way to cling to their illusion of privilege is by robbing others of the right to vote?

5.) Compulsory Voting

If we were to inform our electorate along the lines described in our proposed amendment *and* made voting so much more convenient with the measures just discussed above with universal automatic registration and vote by mail, would it be too much to expect all eligible voters to vote? Considering all the effort and expense of public resources to provide such convenience shouldn't the eligible voter be held responsible to hold up her end of the bargain by the simple act of voting? What excuse could there be for an eligible voter to shirk her civic responsibility of this simplified act of voting? Today, in 22 nations voting *is* compulsory, including: Argentina, Australia, Belgium, Bolivia, Brazil, The Democratic Republic of Congo, Egypt, Mexico, Peru and Thailand. Voting is mandatory for about 1 out of 10 eligible voters in the world, according to the CIA World Factbook.¹³⁵ Why shouldn't we be just as responsible and, be held to the same standards of civic duty as they?

6.) Election of the President by popular vote

¹³⁴ *The Voting Rights Act*, Brennan Center for Justice, updated September 5, 2018

¹³⁵ Laura Santhanam, *22 countries where voting is mandatory*, PBS News Hour, Nov 3, 2014

Repeal the 12th Amendment (electoral college) and replace it with: The candidate receiving the greatest number of all votes cast in the national ballot shall be President elect. (Or words to that effect.)¹³⁶

The election of the president spelled out in the Constitution [Article. II. Section. 1. (paragraphs 2 and 3)] failed just 13 years later in the election of 1800, with Thomas Jefferson and Aaron Burr deadlocked in electoral votes. The twelfth amendment was the attempted repair job. (Please refer to the Constitution in the appendix.) That the repair job has proven inadequate as well, with candidates having lost the popular vote, yet sworn into office nonetheless i.e. Bush 43 and, Trump most recently.

Is it just me, or have you also noticed that when something is fundamentally wrong with the conception of a plan, attempted repairs and all that follows seem doomed to eventual failure as well – similar to the tendency for the cover-up to magnify, or be worse than the crime? What we have come to call the electoral college (the 12th Amendment) is the embodiment of this “wrong from the beginning” phenomenon.

As a direct result of the 12th we now have a nasty distortion of democracy displayed in the “battle-ground state” chase after the “electoral college” victory. Bad things, beside popular vote denials, have happened. When voters are not informed, but are outright ignored too, that further multiplies the negative notion that, *my* vote doesn’t count. That can spiral, especially in gerrymandered districts of “non-battle-ground states” and (Surprise) result in, suppressed voting; lack of civic pride; much less involvement and participation; and finally lead to the hopeless and helpless syndrome.

Can you think of any benefit we get from the 12th Amendment’s proscribed path to the presidency? Electoral college -- it even sounds dubious. Then why put up with it?

7.) Term limits

The arguments against and for term limits have been made throughout our nation’s history. The chief argument against term limits is usually a variation of: They are unnecessary -- we already have term limits – they are called elections. People who espouse this view often cite an example of a legislator who has done an exemplary job. Have you had the good fortune of being served by a truly fine public servant? Why should your representative be arbitrarily removed from office, if her approval is made obvious by serial re-elections? But, how many of your duly elected are rare gems, considered by you as irreplaceable? Even if you have been so lucky, is that sufficient grounds for allowing the undeniable advantages of incumbency in all cases.

If you are ambivalent on this issue, try this little test. Get a piece of paper and a pencil and conduct your own quick survey of each of your elected representatives by rating them 1 to 10 (with 10 being most favorable): President, Governor, each US Senator, your US House Representative, your State Senator (except for Nebraska), and Lower House Representative – 7 (or 6) individuals would yield a possible high score of 70. If your total is less than 40, it may suggest that you don’t view your representatives as irreplaceable, generally speaking.

¹³⁶ Note: Should a tie-breaker clause be added? (It *could* happen.)

Another objection to limiting terms in office is that it automatically puts you, the office-holder, into “lame-duck” status in your last term. As a lame-duck you may not be taken seriously because you lack leverage that your continued presence in office might carry. On the other hand, as an office-holder about to reach the end of your last term, you might be freer to carry out objectives that may have been otherwise precluded by the purely political pressures that another campaign would demand.

Those opposing term limits also argue that it takes time to learn the job and mature in office, to learn the legislative levers. As proof, they will point with pride to all of the (pork-barrel) projects that their senior legislator has “brought back” to the district or state. Why would we want to give up all the advantages that her or his experience, seniority and clout “bring” us? The presidency is one, if not *the* most of the complicated and complex jobs on the planet. If we expect high functioning job performance from our President immediately after assuming office, then why shouldn’t we expect the same from every other person we elect? Why should your Congresswoman need on the job training, for what, a few terms let’s say, to learn the ropes? Unless the real argument is that after learning the ropes, then she can use the ropes to lasso some federal contracts to steer back to your district. This reasoning gives tacit recognition of corrupt dealings -- the very thing that term limits are supposed to guard against.

Money has replaced the people as the “true constituency” for almost all politicians. So, logically it follows that incumbents and Money have most likely built mutually beneficial relationships and it makes sense for both to keep those relationships going, as long as it is working for both the politician and Money. It’s called certainty. Its opposite, uncertainty, is regarded similarly to taxes and regulations as a hindrance to business and profit. An incumbent is a certain commodity. And, assuming the incumbent has responded favorably to Money then the relationship will be perpetuated. The needs of the people are secondary. However, if we amend our Constitution (similar to what we propose) to eliminate Money from our elections, that would also reduce the advantages of incumbency dramatically. With Money banned from our elections, the need to set term limits for elected offices would lose some urgency.

But, if we commit to governing as an ongoing process, that means we also commit to continual renewal. Changing circumstances bring new problems that call for new solutions. Life is not static and governing will have to evolve to meet our changing needs. We shouldn’t count on a single person, or the same group of people to solve all of our problems. This will require faith in ourselves and to find amongst ourselves a constant source of creativity and innovation. We must embrace and trust new generations and, continually encourage new people to step forward. Term limits will codify this belief in ourselves that, we citizens are, and will always be, capable of meeting our needs by governing ourselves.

In the spirit of having faith in ourselves, all elected and appointed offices, in all three branches of government, should be subject to limited terms of service to the public. If we agree that the term of office for the Presidency should be limited, then why shouldn’t that apply to all other offices as well? And since that term is limited to 8 years of service, why not make 8 years the benchmark for all elected and appointed terms? This will necessitate other changes as well.

7. a.) US Senate

To meet the universal eight-year term limit benchmark, the term of office for the US Senate would change from 6, to 4 years. The terms would be staggered to afford continuity in the body of the Senate. No Senator could be elected to more than two, 4-year terms, in a lifetime. There will be a much more thorough discussion of the Senate's unequal apportionment to follow.

7. b.) US House of Representatives

The term of office will go up from 2 to 4-year periods. Again, the terms would be staggered for the sake of continuity within the House. A maximum of 2 terms per lifetime would also be the rule. The most obvious advantage is that this would remove the constant campaigning mode that is just simply too demanding on the psyches and families of our members of Congress. I remember several occasions seeing my Congressman at the airport. Each time he looked utterly exhausted. It was no wonder. He and all of his colleagues would, as a matter of course, return home every damn weekend to raise Money and campaign (yes, in that order of priority). If we increase the term to 4 years *and* eliminate the Money chase, maybe our representatives will be able to concentrate on their jobs and, live well while doing better work.

7. c.) State Legislators

With the single exception of Nebraska, which is unicameral (having a single House Assembly), all states have an upper and lower house, presumably fashioned after our federal arrangement. Terms for the legislators in each house also generally follow the 2-year term for the larger, lower house (or Assembly) just as in the US Congress, with longer terms for the smaller upper House (or Senate). Staggered 4-year terms, with a two-term lifetime limit as described above would apply to all state legislators in both Houses as well.

7. d.) Federal Judges

As written in Article. III., Section. 1. of the Constitution: "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour...". In other words, they are lifetime appointments. If we were to apply the same standards to federal judges, as we do to all other offices (and why not?), a single lifetime 8-year term would become universal. Of course, care would have to be taken to assure that the terms would be in evenly spaced intervals. Replacements as required by such causes as death and disability would have to be made to fill the vacant seat for the remainder of the term, so as not to disturb the even intervals originally established.

Recent surveys show that an overwhelming majority of voters (61-74%) approve of term limits for Supreme Court Justices.¹³⁷ The Framers assumed the lifetime appointment would put federal judges and Supreme Court Justices beyond political influence. It has proven to have the opposite effect. The outright straight party-line rancor over Trump's Supreme Court nominations of Neal

¹³⁷ Eli Yokley, *Majority of voters back term limits for Supreme Court Justices*, according to a Morning Consult/Politico poll conducted July 13-14, 2018. Morning Consult July 18, 2018. And, ISPOS/UVA Center for National Politics Poll conducted July 5-6, 2018; Reuters/ISPOS poll conducted July 10 and 17, 2015.

Gorsuch and Brett Kavanaugh are living proof. Lifetime tenure for federal judges was perhaps never a good idea, but now there is no doubt that it has a negative impact. *The Justices of the Supreme Court and Judges of all lower Federal Courts shall be appointed to serve a single eight-year term* (or similar phrasing) would replace, "... shall hold their Offices during good Behaviour." (Whatever good Behaviour was supposed to mean in the first place.)

7. e.) State Court Judges

Each state judiciary is unique, but there are similarities. State courts are generally structured after the federal court system. There is a state supreme court which hears appeals from lower courts. There is usually a state court of appeals that hears appeals from disputed decisions made by in state district courts (also referred to as trial or county courts) before ultimately reaching the state supreme court, should there be a further appeal.

According to a Brennan Center for Justice study, "State judges are selected in a dizzying assortment of methods. Which method is used depends on the state, the level of court and, the type of vacancy being filled."¹³⁸ About 90% of all state judges are elected, but that comes in many different forms. Some are first appointed by a professional panel for a specified term and, then after that initial term, appear on the ballot in a "retention" election.¹³⁹ Some states appoint all of their judges to a life tenure. In other States all judges appear on the ballot as partisan candidates, with few campaign finance restrictions. Still others appear on the ballot but without specifying party designation. Term lengths are all over map. There are no term limits in any state other than for an upper age limit of 70 years in some states.¹⁴⁰

Considering the "dizzying" complexity of different methods for selecting judges, superimposing a universal lifetime 8-year term limit to all state judgeships would certainly be more difficult than for their federal brethren. On the other hand, it may be a practical start to bring more uniformity to the maze of methods. The question one might pose: if there is uniformity within the federal court system (which also has jurisdiction in each state, by the way) then why shouldn't there be a universal order in state courts?

8.) Uniform Judicial Elections

Do you agree that The Senate Judiciary Committee hearing on the nomination of Brett Kavanaugh garnered universal repugnance? Complaints? We heard complaints from all quarters. Members from each party bitterly complained that it was a disgraceful display of the "other side's" lack of basic morals. Everyone complained that the nomination and confirmation process had become too partisan -- a divisive disaster, living proof of a nation divided. Valid complaints all.

¹³⁸ *Judicial Selection: Significant Figures* Brennan Center for Justice, May 8, 2015

¹³⁹ Jeri Zeder, *Elected vs. Appointed*, Harvard Summer Law Bulletin/Harvard Today, July 1, 2012

¹⁴⁰ *Fact Sheet on Judicial Selection Methods in States*, AmericanBar.org, American Bar Association

Who could argue that this consensus of complaints doesn't add up to the unanimous understanding that this deeply flawed process cannot function without fundamental change? So, where were the suggestions to fix it? Did you hear *any* amidst the cacophony of complaints?

As is our wont in this chapter: here is a sketch for you to consider, which will hopefully elicit a response from you to either improve upon what we have proposed, or even to offer another idea entirely.

The purpose here is to separate judicial appointments and elections from partisan considerations and our other old enemy, Money. What we are proposing is Uniform Judicial Elections (UJE). It would apply to both federal and state court systems, which would keep their organizational structures intact. It would function much in the same way as the NME proposed constitutional amendment for federal and state elections. But, UJE would differ from NME as follows:

- 1.) The electorate for UJE will comprise all individuals licensed to practice law. (Currently there are 1.34 million in the US.)
- 2.) There will be a five Member District Office of UJE (District Office) in each of the 435 Congressional Districts. The UJE District Office will have similar duties to those of the District Office for Voter Information. However, candidates for the District Office of UJE must be licensed attorneys. Those elected will serve a single six-year term. Elections will be staggered in 2-year intervals. The District Board will be responsible for the random selection of peer group interviewers from the pool of attorneys licensed to practice law within their districts.
- 3.) The randomly selected peer group interviewers must also be licensed to practice law.
- 4.) Only individuals licensed to practice law may apply to the District UJE Office to be considered for the Judgeship sought by the applicant. Applications will be reviewed by the District Office, and limited a pre-determined number. The required number of interviews will be determined by the level of the court. The interviewers will rate the prospective candidates for the judgeship on a scale of 1-10. The highest rated prospective candidates will then appear in a series of UJE Forum events. All events will be recorded in multiple formats and made available to the public through the UJE Forum.
- 5.) Primary elections will reduce the number of candidates to two. A general election will determine who will be sworn in to the judgeship. Again, the electorate will consist of those with licenses to practice law.
- 6.) One Member from each District Board will be selected to comprise the National Board of UJE (National Board) that will be responsible to accept applications for the Supreme Court. The National board will accept and review applications for Supreme Court Justice. By vote of all 435 members the National Board will determine which 10 applicants receiving the most votes who will then proceed to the interview process. The National Board will be randomly divided into 435 interview groups of 3 members each. Each group will interview each of the candidates for 1 hour. Each interviewer will then rate each prospective candidate on a scale of 1-10. The 4 prospective candidates receiving the highest ratings will appear on the primary ballot and

participate in all UJE Forum Events. The 2 candidates receiving the most votes will continue participation in the UJE Forum events until the general election. The candidate receiving the most votes will be sworn in as Supreme Court Justice to serve a single 9-year term and Elections will be staggered in 2-year intervals to accommodate the 9-member Court.

7.) Any expenditure of private funds or in-kind services to sponsor or advocate for any candidate for any judgeship in any state or federal court will be prohibited.

In Minnesota we have a “retention election “, after a judge has first been appointed. In general, the judge running for reelection is unopposed. It is very difficult for even the most conscientious voter to keep track of a judge’s record to make an informed vote. Making the electorate the smaller, yet by virtue of profession (licensed attorneys) inherently far better informed than the public at large, makes much more sense. I have often discussed with others the embarrassment we feel at having to vote for all sorts of judges on a “bed sheet” ballot of whom we know little or nothing. In some states the formality of a supposedly independent commission charged with making the appointment or, advising the Governor (usually) to appoint the judges is dispensed with, making the elections of judges equally prone to partisan and Money influence and corruption as all other offices. Something along the lines of what we propose would improve the selection of judges and make it possible to realize the goal of an independent judiciary.

It was pointed out by one critic that if we were to achieve something close to our proposed 28th amendment, many of the partisan pressures that have so polluted the independence of the judiciary would disappear, making the UJE superfluous. This may very well be true. It may also be true of many of the other suggested improvements above. So, maybe we should have entitled this chapter, *And Then, if Necessary*. It is true that we decided the first priority must be address the twin errors omissions left by Article. I. Section. 4. of our Constitution. With that under our belt we would have the courage to address the other shortcomings of our Constitution.

9.) Our Undemocratic Senate

You may have been wondering if this most glaring of all undemocratic manifestations of the Constitution, our egregiously malapportioned Senate, would be included in this wish list. This time, I was just saving the *worst* for last. And, admittedly, because it would be the most difficult of all to change by a “mere” amendment. As much as I hate to admit it, it may be impossible to change, by any means. Because, it would require the legislatures in the less populated states to vote against their own interests by reducing their influence in the Senate, thereby making ratification nearly impossible. To make matters worse, the Framers included a little nugget at the end of Article V, regarding exclusions of prospective amendments, which all but seals it, “...*and that no State without its Consent, shall be deprived of its equal Suffrage in the Senate.*” So, today that means the citizens of Wyoming (the least populated state, with about 560,00 people) will continue to have about 70 times greater representation in the Senate than the citizens of California (the most populated state, with over 39 million inhabitants). Texas (with a population of 28 million) and Vermont (624,00) will both always have 2 senators. For our citizens in the most populated states, couldn’t they make the legitimate claim of “taxation without representation”?

The only way out of this mess, among other constitutional conundrums, would be, as the esteemed Dr. Sanford Levinson put it in his book *Our Undemocratic Constitution*, to send our “constitution to a new constitutional convention for repair”. His proposal: “Shall Congress call a constitutional convention empowered to consider the adequacy of the Constitution and, if thought necessary, to draft a new constitution that, upon completion, will be submitted to the electorate for its approval or disapproval by majority vote? Unless and until a new constitution gains popular approval, the current Constitution will continue in place.” Levinson’s idea is that this proposal should be brought forth in the form of a national referendum. So, as you can see, our book has been preceded recently by at least one, in which its author was unafraid to propose what is a rational, common sense way forward – banish the hopeless and helpless syndrome and its negative self-prophecy.

So, while we are at it, we might as well rebuild our broken republic. What are we afraid of, a better life for our children?

CHAPTER 14

QUESTIONS, QUALMS, CONCERNS AND OBJECTIONS

For many years this idea has percolated through the sands of thought and the strata of discussion. Certain undissolved elements remain suspended that could cloud the essence for some. In the last pages of the book we will attempt to filter out and examine the elements that remain. Some elements may simply defy complete comprehension through the lens of conjecture. We have to be willing to assume the risk of a little uncertainty to avoid the certain fate as a failed state by doing nothing.

1.) Lots of folks have mentioned that the amendment we propose is way out of the norm of our most recent amendments. Quite true. And, quite intentional. To show you why, why not look at the how it started?

First Draft of the Amendment

Section 1. Any expenditure of private funds to advocate for or against a candidate or ballot item in a public election, or to influence legislation shall be prohibited.

Section 2. Fair, free and open election and legislative forums shall be established to provide citizens, candidates, elected officers, and advocates a means of communicating with the public.

Section 3. Citizens chosen randomly shall evaluate prospective candidates by a process of group interviews to rate them. Those receiving the best ratings shall participate in a primary election to choose the candidate(s) for the general election.

This is the original written version. Minus Section 4: (the pro forma) “Congress shall have the power to enforce this article with appropriate legislation.”

The draft above would be more in the norm of a typical amendment. In fact, it was fashioned to fit the norm. For years we tried to keep it short and simple. Short, simple, therefore, open to interpretation and, inevitably, misinterpretation. And that, invites manipulation and circumvention. Remember, it’s Money we are dealing with here. If the history of campaign cash misdeeds we have catalogued in these pages teaches us one thing, it is that there must be no doubt whatsoever as to the intent and, the best way to support intent is with specificity. And, still there will be problems with the interpretation of intent we will have to deal with.

So, after many years of mostly rational consideration and discussion we concluded that it was in keeping with the purpose of this amendment to be purposefully proscriptive. No, this not the norm for recent amendments. It really can’t be, in order atone for our twin sins of omission and to rectify them at long last. By its very nature, it requires an extra measure of intent down to the

details. So, we decided to defy the norms and make the amendment quite specific. After all, the intent itself, we eventually had to admit to ourselves, *is* revolutionary. No denying it. We might as well embrace it.

By getting into the details in the amendment, with its supporting legislation, and to specify the methods to implement it, we are getting in return, four dividends. 1.) It shows that this idea has substance. It has been thoroughly considered and modelled. You could say that its first experimental model has already been built, so it can be scrutinized and tested by critical examination. At the very least, there is enough fodder here for considered discussion. 2.) By laying out the guidelines for supporting legislation we take the intent one step further, to assure that – Money, like water, will *not* find an outlet – through less than thorough or purposefully porous legislation. 3.) Many a well-crafted proposal languishes for the lack of any plan as to how they might be implemented. Our plan to use the Constitutional tools at our disposal (including a historical template for their deployment) makes implementation of the proposed amendment viable. 4.) Finally, defending the criticisms is an exercise which makes us challenge our own assumptions. It is not meant to give us the last word, but to lend another level of understanding and to see if the elements of our design can stand up to scrutiny. If not, then elements must be changed, deleted and replaced, or omitted altogether, as necessary.

That is not to say there isn't a better over-all design or, short of that, improvements and changes that wouldn't make it better. We don't claim to be experts, or to have all the answers. All that we offer was written by and, for the average citizen. So, if you happen to be reading this and something comes to mind, share it, please. The more voices the better.

Furthermore, we conclude our proposed amendment with the typical closing Section (and very much the norm): *Congress shall have the power to enforce this amendment with appropriate legislation.* So, if we adopt this proposed amendment, we the people, will have a new way to express our wishes through our Legislative Forum to improve upon our amendment.

And, it won't, because it can't, cost any citizen a single dime to participate. The costs must be borne by the public. That is the meaning of public. Nothing is more public than governing ourselves responsibly for all to witness openly and fairly, because speech, not money, will be the currency that allows democracy to reach its fullest potential.

2.) It's obvious that the peer group interview process will require a considerable number of people. How many, and how does that compare to the party endorsement and nomination process we have?

In order to best illustrate this, we need examine the current Too Big Parties' (TBP) methods, so that we may compare how we choose our candidates now, in comparison to what we propose. Currently, the process begins with party precinct caucuses. Minnesota will again serve as the example, for no other reason than that is where I live. I've been to precinct caucuses in both parties. I have also been to a few endorsement conventions, though I am no expert in party

politics, at least I've witnessed the process firsthand. In all (10 or so cases) my participation was motivated by enthusiasm for a particular candidate, not because my views aligned with the party. According to the Minnesota Secretary of State, on Tuesday evening February 7, 2018 there were a total of 38,356 Minnesotans, from both the TBP, who attended their party's precinct caucuses. Attendees of the precinct caucuses chose who among them moved on to the next steps, and became delegates to, 1.) the State Senate district conventions and, 2.) to the county conventions. At the State Senate district conventions, individuals seeking seats in the state legislature were endorsed and attendance was low (as is typically the case). The county conventions were better attended by 75 to 200 delegates. At the county conventions, delegates were chosen to attend the US Congressional district and State conventions. An average of 430 delegates (215 from each party) attended the 8 Congressional district conventions. Those same delegates served again at their party's State convention. With 8 Congressional districts in Minnesota that means 3,440 delegates were present at the State conventions for both parties combined. The number of delegates attending each party's convention were not equal (approximately 1,200 Democrats and 2200 Republicans). These numbers were combined for the sake of comparison with our proposal, which is entirely non-partisan.

At both party's Congressional district conventions 430 delegates endorsed 2 candidates (1 at each party convention) for the US House of Representatives. Those same 430 delegates would have also elected from their rank, delegates to the national party conventions, had it been a presidential election year.

The same 3,440 delegates convened again at their respective party's state conventions where they endorsed 2 candidates (1 at each party convention) for the following offices: Governor, United States Senate, State Attorney General, State Auditor and Secretary of State. There are 67 State Senate districts in Minnesota. Attendance at these conventions was light, as all 134 seats in the State House of Representatives were up for election in 2018, but none of the regular 67 State Senate seats were scheduled for election due to their normal 4-year term rotation. Although exact figures were unavailable it is estimated that the 268 endorsements (134 in each party) for the State House seats were made by just under 2,700 delegates, out of the original 3,440 delegates.

From my limited past experience, it would be safe to assume that we could refer to those original 3,440 delegates as the *party faithful* or *party regulars*. There may have been a few newcomers, such as myself in the past, but most of them were filtered out at the precinct caucus level. In other words, the same 3,440 party regulars determined the parties' endorsement of 298 candidates in the non-presidential year of 2018. It was also clear from my experience that most of the candidates seeking endorsement came from within the ranks of the party faithful. There is one more important observation from my past participation in the endorsement process to share. There was little or no chance to have a conversation beyond a mere greeting with those seeking the endorsements. The convention formula was strictly speech from the podium to the convention floor, no more. Those speeches, thin website content, endless spam and glossy mailings consisting of bullet points and pictures (all of which requested contributions) were all the party faithful had to go on to inform their votes for the endorsements. Of course, if one were able to present a significant check or host a fund-raising barbeque, then the story would be quite different.

With that overview, we have the apples of our current TBP party endorsement process to compare to the apples of our eyes, for the proposed nonpartisan peer group interview ratings. The comparison will still be unfair though -- more like Red Delicious to Honeycrisp. The numbers will at least provide us with some basis for comparison.

You may recall that all applications for each elected seat will be reviewed by the District Office for Voter Information Board to determine which 10 candidates are best qualified for each seat. It's hard to predict how many applications will be made to the District Offices, let alone for which seats. We have proposed that each office to be staffed by 22 professional civil servants. With the five elected board members that makes a 27- person team to sort through all of the applications for the 50 to 60 seats in a given election. Suppose there are 50 applications for each seat. That makes 2250 applications that the Office staff has to screen. One suggested method would be to assign the same pattern for the interviews and divide the office into 9 groups. All six groups of 3 in each office would then be assigned to review 416 applications. Each group member could independently rate each applicant, just as with the proscriptive candidate peer group interviews. The 10 highest rated applicants become the 10 pre-qualified candidates who will then participate in the peer group interviews. This assumes that there will be *more* than 10 applicants. It may also turn out that there may be *fewer* than 10 applicants per seat, in which case, all applicants would automatically participate in the interviews. In either case, the interview process will narrow the initial number of prospective (ten or fewer) candidates down to 4 who will go on to participate in all of the Election Forum events in the lead up to the single nonpartisan primary.

If the peer group interview process had been in place in Minnesota in 2018 then, 90,000 peer group interviews would have been conducted by 16,000 interviewers. This assumes there would, indeed, have been at least 10 applicants for each of the 155 seats up for election. Under the proposed peer group interview process each interviewer would have been responsible for participating in 20 interviews and rating 20 prospective candidates over the 60-day interview period. The breakdown of required interviews by seat as enumerated in the proposed amendment itself:

INTERVIEWS REQUIRED
(State of Minnesota Example, based on the 2018 ballot)
90,000 Interviews Conducted by 16,000 Interviewers

Office	Interviews Required	Prospective Candidates	Number of Seats	Total Interviews Required
Governor	200	10	1	2,000
US Senate	200	10	1	2,000
US House	100	10	8	8,000
State Auditor	100	10	1	1,000
State Attorney General	100	10	1	1,000
State Secretary of State	100	10	1	1,000
District Board Voter Information	100	10	8	8,000
State House of Representatives	50	10	134	67,000
Totals	950	80	155	90,000

90,000 peer group interviews x 3 interviewers per group = 270,000 interviewers.

But, since each interviewer would have been assigned to participate in 20 interviews, only 13,500 citizens/eligible voters would have participated in the peer group interviews. However, just as with the party endorsing conventions a certain number of alternates would also have been available to fill in due to absences.

We have not discussed the number of alternates that will be needed for the interviews, which will fall under the purview of the of the District Office for Voter Information. The random selection of 16,000 eligible voters would probably suffice to make sure there are 13,500 interviewers available for all 90,000 interviews to proceed according to schedule. You may think this is like a small army of people. But it is less than 0.5% of the estimated 3.5 million eligible voters in Minnesota.

Note: Election to the 5 Member District Board for Voter Information will necessitate that every third election, on a two-year election cycle for a single term of 6 years, 2 new members rather than 1, will have to be elected into office.

Under the current party system, 3,440 mostly party regulars endorsed 2 candidates for each of the 147 seats in 2 separate party primaries. With the peer group interview system, 12,600 randomly chosen citizens would have rated and selected (via highest ratings) 4 candidates who would have appeared in a single nonpartisan primary ballot for each the 147 seats. *This means that the peer interview process involves 3.66 times more citizens than the current party endorsement system.* Another comparison: there were 38,356 precinct party caucus goers in 2018. This proposal would have involved 16,000 randomly selected eligible voters – **2.4 times** fewer people involved. Granted, each of the interviewers would be asked to contribute 10 hours of time, in 5 sessions over 2 months.

It's a bigger commitment for an individual than a single evening caucus. But spread across the public, it amounts to just 5.4% more hours. Here's how it breaks out:

In the TBP system, accounting for all county and state district conventions goers' 78,000 hours and including the 3,440 party regulars, plus another 560 alternates, each spending three full days at the US district and State endorsement conventions (three 8-hour days = 24 hrs. x 4000 conventioners = 96,000 hours), makes a grand total 174,000-hours of volunteer effort by party faithful people. Rest assured, these proceedings are full on partisan affairs. Each party engages in its share of hate speech against the other party. Invectives are hurled. Of course, each party consists of real live fellow citizens, who are being attacked by association. The dehumanizing of our very neighbors who happen to belong to the other party is what happens in both TBP conventions, driving us further and further apart.

Contrast that to the typical interview sessions we propose: groups of three eligible voters sitting in their "home rooms" (in school classrooms) greeting, conversing and questioning 4 prospective candidates, 30 minutes each, with three 5-minute breaks. With 16,000 interviewers and alternates multiplied by 11.5 hours (interviews and breaks) that makes for 184,000 hours of virtuous ripples – with a mere 5.4% more hours dedicated than by party faithful to the effort the TBP do.

To continue the comparison, we'll look at a single seat, that of Governor, beginning with the party system. The former Governor of Minnesota was not seeking re-election in 2018. So, there was a big field of hopefuls in both parties to begin with. The first real hurdle for any hopeful was to raise money, because, as always, it required a lot of money to get the message out. Fundraising is seen as a viability test. It isn't the only qualification, but it is certainly the most important. By the time the 2018 state endorsement conventions took place the field of hopefuls had been trimmed to down significantly. There were only 6 candidates left, 3 in each party, who entered the party conventions seeking endorsement. 3,440 delegates at both conventions considered 6 candidates for Governor and endorsed 2. As fate would have it, both of the party endorsed candidates had to face challengers in two separate primary elections, 4 candidates for Governor were on the ballots. The same number as would have appeared in a single nonpartisan primary after having participated in the peer group interviews (for an equal comparison).

The difference in how those candidates for Governor would have appeared on the primary ballot is worth describing to show the contrasts in the two methods. Every application made to the 8-member State Review Panel would have been considered on the basis of experience and qualifications to narrow the field to 10 of the of the most qualified to participate in the peer interview process. Party or political affiliation would have played no part in the review made by the Panel and staff, nor would ability to raise campaign funds, obviously. Each of the 10 most qualified prospective candidates would have been interviewed for 30 minutes by 200 separate groups of 3 individual interviewers, or 600 different people. These are in depth face-to-face conversations, not spam email donation requests, nor difficult to recycle glossy mailings, nor speeches from podium to floor.

What's more, the TBP nominating primaries can further distance the process from the people and dilute democracy. Anyone with enough Money can by-pass the party endorsement process altogether and appear on the primary ballot. That is exactly what happened in the Republican Party primary in 2018. Former Governor, Tim Pawlenty could see that despite his name recognition and Money, he didn't stand a chance of being welcomed back by enough of the party faithful to win the party endorsement. After his last term as Governor and unsuccessful bid for the Republican Party nomination for president in 2012, Pawlenty did a stint as a highly paid lobbyist, heading up the Financial Services Roundtable (big banks) in Washington. He adroitly parlayed that position to his advantage and had no trouble raising the requisite campaign cash. He simply bought his way onto the primary ballot and easily bank-rolled the advertising for his primary bid. But, he lost the primary. And, no, that doesn't prove that Money doesn't corrupt our elections any more than a single snowstorm disproves climate change.

Tim should have followed Al Franken's earlier, shrewder and successful purchase of Democratic Farmer Labor Party (DFL) faithful. He combined both tactics -- he gave Money to the party faithful to buy his way into support by the party establishment to win his first endorsement for the US Senate by the DFL in 2008. The Democratic Party establishment got burned (or so they thought) by the "democratic wing" of the party when they endorsed George McGovern for president back in 1972. So, they changed the endorsement rules to include so called "super-delegates", comprising office holders and party officials i.e. party bosses, who are free to vote for whomever they choose for party endorsement. These super-delegates are not bound by the

same rules as the rank and file delegates, who are “pledged” to vote in accordance with the majority vote from their home District and County endorsement conventions. So, independently wealthy Al drove around Minnesota for 2 years on a “listening tour”, while handing out hefty campaign contribution checks to super-delegates before he ran for US Senate the first time. How else is a comedian supposed to break into politics?

In chapters, *Party* and *Global Problem* we pointed out the impossible task of trying to police intra-party politics. If we continue to farm-out candidate selection to the parties, then democracy will never develop.

3.) If you don't do it, nobody else will

It was the chance sharing of passenger train car compartment, and the conversation between Susan B. Anthony and, US Senator, Aaron Sargent, that took place in that compartment, which is said to have inspired Sargent to author and propose to the Senate in 1878 the 29-words that would eventually become our 19th Amendment. The chance, yet momentous meeting, has become a clichéd story line. What I am about to describe, is just another grain of sand for the scale, not the tipping point, though (who knows?) we have been longer in documented pursuit. We are overdue by comparison. From Seneca Falls to ratification of the 19th, it took 72 years. We *are* inexorably closing in on our 28th amendment. It is a matter of time. Since TR signed Tillman till now, 112 years have gone by.

In this case, it was the fortuitous side-by-side seat assignment, and conversation that ensued with a gentleman, on a transatlantic flight. Jack Reardon is, at this writing, a Professor at Hamline University, School of Business in St. Paul, Minnesota and, Editor of the International Journal of Pluralism and Economics Education, then returning from an economic study in India. I was on my way back from Uganda. Both of us were on the last leg of our return trip to Minnesota from Amsterdam. What started our conversation was that he noticed I was reading Robert Reich's latest book (at that time), *Aftershock*. The book, as I summarized for Jack (who had not yet read it), was a continuation Reich's previous work, *Super-Capitalism*, on the destructive fusion of Money with politics and policy making. And, how that distorts and harms our economy. Reich was right on the money in his analyses -- market manipulation for Money by Money for more Money (my words). He stated problem thoroughly and well. He suggested policy solutions but, then acknowledged that since Money controls the whole show, the policies he proposed wouldn't likely be enacted. Realist? Or, Defeatist? It too has become clichéd, to refer to a proposal to fix one of our myriad problems failure to launch, as “lacking political will”, when really it was simply smothered in the crib by Money.

You can't expect detailed solutions from academics warned Jack. It's not their job. They study things. Yes, Reich is brilliant at pointing out what is wrong. But scholars can be tortured by brutal peer reviewing, so they are loathe to venture too far out of their fields of expertise, not only for fear of the possibility of harsh criticism, but in deference to those whose expertise may be more appropriate to conduct a particular study or to suggest policy. Besides, defending your work is a chore not relished by most. Nobody wants to stick their neck out too far.

To make matters worse, of late, it has become fashionable to rate policy proposals on their chance to succeed, as deemed by the author. Reich isn't the only one to down rate his own proposals. Lawrence Lessig practices preemptive proposal shoot downs also. In, *Republic, Lost*, his and other's proposals are thin to start with. Some border on self-parody. But what purpose is served by presentencing ideas to doom in the womb? If you are going through the rigors and risks associated with properly examining an idea, then a healthy gestation is required for a successful birth which leads to a healthy start and, fruitful life, we hope. There must be confidence that what is proposed can fly on its own. If not, it either needs more work, or it should be shelved.

I had by then, of course, described No Money Elections to Jack, then still in its early written form. Jack suggested writing a paper for his journal. But, I'm no writer, I protested. No matter, he assured me, as he generously offered the help of his journal. He is the editor, after all. For one excuse or another, I have not as yet taken him up on his generosity. I must credit Jack here for nudging me towards more work on NME. It had been my assumption that we just had to wait for highly qualified and educated talent to present a proposed amendment. I searched, but could not find a proposed amendment that gets Money out of our elections completely, or produces public information forums, or public nonpartisan candidate selection, maybe with, or something similar in principle to the peer group interview process discussed throughout this book. It started to dawn on me that maybe I *should* take the initiative to make my proposal public, because I wasn't seeing anything that would do the job. Finally, I started by publishing a website, the first edition of NoMoneyElections.org. But, because I seem to have a natural aversion to social media, there has been no promotion of the site (or the proposal) beyond word-of-mouth.

Several years later, another Hamline University Professor I know, Mark Berkson, became interested in, and enthusiastic about No Money Elections, the concept. (Mark did not learn of it from Jack – they don't know each other or cross paths on Campus). With an enthusiastic twinkle in his eye, Mark encouraged me to write a book. He offered to host a round table discussion at the new conference centre on campus to discuss what amounted to the outline for this book: The recently updated and new amendment proposal with new model supporting legislation and information. He eagerly waded into the PowerPoint depth but after consulting some other instructors, jumped back out when a circuit breaker was seemingly tripped by the complexity of the proposal. Too big a departure from the existing system, too complicated, just altogether too much. That was the consensus arrived at by consulting with his peers, which he recounted at the discussion. Couldn't we just prohibit money in our elections and let the implementation grow organically, he wondered? A locally famous retired editor and publisher of a popular periodical, also attending the same *NME PowerPoint and Beyond* presentation agreed. He noted the proposal's potential as good grant bait. (Not his words, exactly.) Both the hosting professor, and an artist also attending, were taken by the presence of the former publisher. The professor offered his hand and thanked the publisher for his fine work in his popular publication. By coincidence, the artist had worked with and greatly admired the publisher's artistic designer. The artist also offered to collaborate with us to make visual aids for the website and this book, that would presumably make the content easier to understand. But then, like so many who at first seem enthusiastic, become "just too busy" when it comes time to follow-up (myself included).

As if to almost commemorate the half-dozen year anniversary of the flight from Amsterdam I contacted Jack again by e-mail, to invite him to that confab on his campus. It was on short notice, (as it was for everyone I invited due to limited options available for scheduling the discussion.) Most everybody I was able to contact, and spoke to, had previous engagements. I, for one excuse or another, mostly for the lack of time and money, have not re-connected with most of those who weren't able to make it. And, I haven't heard from many of them either, Jack being one of them. Though that does not preclude my trying to engage with him or any of the others again. The short notice for the meeting was maybe not the wisest choice on my part. Then again, because of time and money constraints, we had to go with what volunteer resources would allow, which was earlier than optimal.

4.) *Is it realistic to expect to create a national discussion of this proposed amendment without spending money?*

If our proposed amendment is so good, will it rise by its own merit and take flight by itself? Probably not. So far, the cash expenditure is negligible beyond the time thinking, discussing and writing, to this point a considerable amount. It has required quite a lot of volunteer and some concerned citizen time, and a little cash to pay for things like the website hosting, printing and postage. So far, we have resisted asking for donations and grants because on the face of it, asking for money to stop money is a real conundrum. It is an ethical trap. It seems antithetical to the cause. It would also potentially be hypocritical if we were to decide to engage in this way. Probably most difficult, it would mean having to step into the corrupt little ring and play by the rules that we find so abhorrent, in order to get the message out.

On the other side is the no less compelling; it takes fire to fight fire. Part of the research for the Chapter 6. *Reform Problem* was on various 501(c) 3, 501(c) 4 and 527 advocacy groups that troll in the ever-expanding non-profit waters for grants and donations. As we revealed in that chapter there are a number of groups that are taking peoples' money for a promise to advocate for nothing more than a set of principles. In many cases there was no real there, there. This would make our proposal stand out in stark contrast because what we would be proposing would be very specific. Ironically, our proposal would make all of the 501(c) 3, (c) 4 and 527 groups obsolete should something close to our proposed 28th become reality.

For the sake of argument, suppose we were to form our own 501(c) 4 group, raise money and ***organize this:***

Here is a plan to fund a state-by-state organization, required to play the convention card to amend our constitution. We would hire 109 state-organizers¹⁴¹ to encourage citizens to petition their legislators following the example of several petitioners compiled back in Chapter 12., *It's up to you*. The organizers would be assigned to report to the national board, which would be selected by the same process outlined in Section 4. of our proposed 28th, to select from the 109 state organizers, the 7 members of the national board. We could just target the 34 most likely states to act, but a 50-state strategy may prove well worth the extra resources dedicated for the return benefits. The wages and benefits necessary to implement this plan would be

¹⁴¹ Note: Each state organizer would be responsible for a territory comprising 4 contiguous US Congressional districts.

approximately \$9.52 million annually. Travel, mileage and office expenses are estimated to be \$5.1 million. Although it is tempting to say Rome could be built in a year, it might be wise give this effort 3 years. After which time, on the outside chance it doesn't make it, the decision could be made as to whether it's worth continuing – say if we were still at it, not there yet, but right on the verge of ratification. So, the effort might cost as little as \$14.62 million, or more than \$44 million. To put this in perspective: The Heritage Foundation, by its own accounting and published on its own website, spent \$81 million in 2016 alone, “to advance conservative principles.” What we are proposing would be a quantum leap for democracy by way of a brand-new constitutional amendment for \$14.62 million to \$44 million – a steal in comparison. Another way to look at it: outside advocacy groups spent \$9.6 million of the \$13.5 million (*reported*) spent on the US congressional race in 2018 in my rural district in Minnesota.¹⁴² Contrast that to the mere \$33,609 per US Congressional district annual cost of our proposed 501(c)4. What is the price of attaining true democracy and saving our country while we are at it?

Since this plan was hatched in Florida, let's use the Sunshine State as our example to explain it with back-of-the-napkin attention to detail. In 2019 the estimated population of Florida is/was 21.64 million. Since there are 27 US Congressional Districts in Florida, then there would be a need for 7 (6.7) state organizers to cover the state adequately. There are 120 representatives elected to Florida's lower house. There are also 40 State Senators. This means that the 7 state organizers would be responsible for petitioning 17 House representatives and 6 Senators by way of our petition to support and vote for a resolution by the Florida State legislature as per the No Money Elections petition to amend the Constitution.

Each of the state organizers would be expected to encourage constituents within each House Representative's and Senator's district to collect signed petitions from other constituents within those districts to present to those Senators and Representatives in face-to-face meetings. This could be an ongoing process throughout the year not just for the 3 to 4 months the legislature is in session. In Florida there are offices out in each House and Senate legislative district for constituents to contact their representatives and the offices are open and staffed year-round. In Minnesota the offices are also staffed year-round but are located at the Capitol, not out in the districts. In either case, it is easy and convenient for constituents to contact their representatives. This makes the broad-based grass-roots petitioning we envision quite feasible. In California there are nearly 40 million people with only 80 lower House representatives and 40 Senators. In that case, there are far more constituents per representative, but that means there would be more of our state organizers to assist constituents in petitioning their representatives, since the organizers would be assigned by US Congressional districts (53 US congressional districts = 12 state organizers each assigned to just 8 House Reps., and only 3.3 Senators).

The goal for each our state organizers in Florida would be to enlist at least 6 people in each of the 17 House districts (102 people) and 18 people in each of 6 Senate districts (108 people) to petition their Representatives and Senators respectively (210 people altogether). As we showed by way of example in Chapter 12: *It's Up to You*, the best way to petition your Representative or Senator is by arranging a face-to-face meeting. Ideally, each of the 210 people our state organizers would in turn have enlisted collected at least 20 signed petitions from

¹⁴² Maya Rao: *Outside political money poured into Minnesota's congressional races*, Star Tribune, Dec. 11, 2018, Minneapolis, Minnesota

neighbors/fellow constituents to hand to their Representatives and Senators at their meetings. This means that within a year, each of our 7 state organizers in Florida would oversee the signing of 4200 petitions and 210 meetings with the legislators. With 260 work-days per year, each organizer would only have to get 16 signed petitions & line-up 1 meeting with a legislator per day. Over the whole state that means there would be 29,400 petitions signed and 1,470 meetings of constituents with their Representatives and Senators to arrange in a year's time.

5.) *What about lobbying for the disadvantaged and “un-moneyed” interests?*

The caricature of the lobbyist for Tobacco, Wall Street Banks, Big Oil, Big Arms dealers, Big Pharma, Big Ag – or for Big Anything, for that matter, is universally negative. That caricature of a lobbyist is easy to hate. When asked about their fate post 28, I get rewarded with laughter for, “I guess they’d probably lose the golf shoes, and have to get real jobs?” But, one time when I threw out that laugh line it resulted in a serious foot-in-mouth moment. A friend of mine, who was in the discussion group, had to remind us, that she herself was a lobbyist for the deaf at a nonprofit. She was doing good work advocating for disadvantaged people. I had never thought of her as a paid lobbyist.

So, what about beneficial expenditures i.e. “good lobbying”. In fact, isn’t what is being discussed here, raising money to organize a national conversation of our proposed amendment, exactly that. This would be just another one of those despised 501©4 groups funded entirely with private dollars. But after the amendment is enacted, raising the money and the expenditures we are as yet hypothetically proposing, wouldn’t be necessary because the Legislative Forum would be free for all citizens to present ideas such as these to state and national audiences. Having to beg for money to advocate for worthy causes and to grovel for crumbs of appropriation from legislators would not only be unnecessary, it would free up necessary resources to use directly on solutions.

If we can manage to live up to the promise of the first three words of our Constitution, then the needs of we the people come first. Foremost are the needs of the disadvantaged, unfortunate and underprivileged. Special needs of specific segments of our population wouldn’t require a paid lobbyist, because Money wouldn’t be there to step in front of the line.

Some have pointed out that lobbyists perform a valuable function to provide expertise to legislators in a given area. Indeed, the lobbyists will even go so far as to write the legislation. But, lobbyists and lobbying are not necessary for legislators to get the information they need. Nothing stops legislators from calling on experts. Subpoena power can be invoked by legislatures and Congress when needed. Lobbyists are *not* needed.

6.) *It’s just too complicated and other common complaints.*

My book club friend, mentioned in Chapter 13. *Paradigms Lost, Republic Found*, surprisingly, finally took in the NME Website content. Not surprisingly, she pronounced it to be too complicated, as well. When I asked for examples of the confounding complexities, so I could perhaps shed more light on them, she demurred. “You get an A for effort but it’s just too complicated.” That our political system is not just dysfunctional but has already failed, she and

many like her, know only too well. So, I asked her if she had any ideas about what we needed to do. “No, I don’t know what we can do.” Was her forthright reply. “I just know what you set forth is going to be too much for the public to take in.” I didn’t, though I wanted to respond with, “You want complicated? Just look at the byzantine system we suffer under, each state with its own version – now *that’s* complicated!” At the beginning of this chapter we explained why we needed to pay so much attention to detail. It is needed to avoid misinterpretation and manipulation, which, as we have also shown, has been the fate of all of our campaign finance law. Isn’t there also the risk, as one observer asked, of dumbing everything down to the point that we all become stupid?

Another expressed gratitude for the direct, clean and simple exposition of our proposed amendment. That was the aim, to make the proposed amendment complete and open for close scrutiny, which would lead to discussion and engender more attention and consideration. Most people do embrace the concept and it makes perfect sense to them. That is the only reaction we expected, honestly. The derailments after the Power-Point station came as a surprise. Yet another wise friend advised me to expect the complexity circuit breaker to trip as a natural part of introducing any change or anything new (unless it’s a glittery new gadget for quick gratification, or entertainment – then new is *it*). If what you’re proposing requires thought, she advised, then expect some rather irrational backlash. The most common type of backlash comes in the form of seizing on one particular potential problem and inflating it into a perceived fatal flaw. Once the fatal flaw is revealed, then that person can be excused from the work of considering the proposal further. I admit to doing the same. Change requires thought and that requires a lot of energy. It makes me uncomfortable. I find myself endlessly repeating the same old way of doing something, even when I know full well it will have poor or mediocre results at best every time, rather than going through the perceived (and fretted about) hard work of doing it differently and, maybe even discovering (who knows?) a better way. Many times, if not most of the time, once I have made the leap to a new way, I’ll think to myself, “after all that tortured fretting I put myself through needlessly, it turns out; that wasn’t so bad after all, now why didn’t I do that a long time ago?” More often than not, a trumped-up fatal flaw was responsible with the irrational denial of change.

One young supporter turned detractor choked on a hot dog. To his credit, he was initially impressed with our proposal. He even went to the length of telling his co-workers about it. Unfortunately, he was put in the difficult position of defending the amendment to co-workers who hadn’t even read the PowerPoint. Rush Limbaugh is on the radio during lunch-hour (to aid digestion?). No Money Elections? – there’s gotta be a catch. One of them posited a hypothetical: No expenditures at all? Does that mean you can’t host a back-yard barbeque for a candidate? You mean you can’t even buy a single hot dog? From there our former supporter decided the proposal was too authoritarian. Then he decided that it was a better fit for North Korea than America (jokingly?)

There are at least two more that I’ve heard more than once, that seem to be borne out of a deep mistrust of anything having to do with politics, rather than the particular facet of the amendment with which they find fault. For both, the Office for Voter Information District Board was the fault they found in common.

1.) The formation of the first District Boards might *somehow* get corrupted. How? “I don’t know, it just seems like there is always something, somebody or some group, that finds a way to seize power when there is a lot on the line, as there would be in the first election to establish the District Boards.” It is true that the District Boards will have considerable power, within the proscriptive guidelines laid out, in building the system at the outset. That is why the Boards’ Members must be publicly elected, not just appointed. It is also why we set up the first election of the District Board Members with the same safe and fair method of selecting candidates by the peer-group interviews, conducted by randomly selected citizens described throughout. It’s as fair as we could possibly design it. It eliminates the possibility of party intervention. Expenditures are prohibited, so Money will have no way to corrupt the process (see Chapters 8 & 9). Once more, if you think of a better way, let’s talk, please. We’ll edit this pdf book right away to include your idea and give you due credit, if it improves upon what we have proposed here.

2.) The District Offices’ process of limiting the number of prospective candidates to 10 of the most qualified who go on to the peer-group interviews could *somehow* get corrupted. How? “I’m not sure how, but what if they [the Board] only choose candidates who align with their ideology or political views?” It’s highly unlikely for the following 7 reasons:

1. The purpose of the Office for Voter Information, as mandated by our 28th Amendment, is to provide *fair, free and open* Election and Legislative Forums. Any candidate must convince the current board, the peer-group interviewers *and* the electorate at large in both the primary and general elections, it is job they are uniquely suited to carry out, to serve the public by performing.
2. Any person interested in becoming a District Board Member must qualify for candidacy via the same application and peer-group interview process as for all other offices.
3. Then they must face public scrutiny in the Election Forums for both the primary and general elections.
4. They must win *both* elections.
5. There are 5 elected Members. They would all have to agree on the same slate of 10 qualifying prospective candidates (for each office?).
6. Even if they did agree, the make-up of the Board changes every election cycle with 1 or 2 new members coming on board.
7. Finally, the prospective candidates they choose have to submit to the peer-group interviews to become full-fledged candidates. Then they have to win 2 elections (primary and general) to take office.

Every safeguard has been made to assure the Boards and Offices for Voter Information act with singular impartiality in order uphold a doctrine to provide fair, free, equal and open access to all that indeed motivates this proposal.

7.) This proposal would push the few small independent media outlets that remain, which are very dependent on political advertising revenue, out of business.

It's a sign of a healthy democracy to have active and free journalism. Certainly, in the short term when this proposed amendment is enacted, certain publishers will have to react to a sudden loss of a big part of their current income stream. It's easy to say, "react". I realize if you are living it, it is not so easy. One reaction could be the heart wrenching, "That does it, let's shut it down." Nobody wants to see that.

But, it could just as well lead to some very positive adaptation. It's universally agreed upon, we rely on a vibrant press to help to inform the voting public. But, it's expensive and not practical to have reporters out chasing down candidates. More and more, just the campaigns for larger offices end up with any coverage at all. So, like all things as they are, Money causes the problem, it makes publishers dependent on the gaudy ad revenue that really serves no one. Not one of us benefits from the [mis] *information* imparted in political advertising. The polar opposite, The Election Forum, will make it much easier and far less costly for the media in all of its forms to access to the candidates for all offices. When our 28th is enacted the Office for Voter Information will implement interviews and press conferences for the media. In addition, the Office will be the repository for all verbatim, original source information, which will be available in all formats, to all, for free. This will not only benefit each of us as direct consumers of the bounty of information. This could result in a publisher making the decision to take advantage of that free access and produce quality coverage of Election Forum events and reportage of those events. Publishers could see it as an opportunity to sell a variety of advertising to a public which now may well be more interested in elections. More and better coverage and reporting may ultimately bring in more revenue and from an expanded market of advertisers. Better.

Furthermore, just what are the advantages of the current forms of political advertising? Do you find it informative, generally? Sometimes? Never? Do you dislike it? Do you ignore it? Do you know anybody who feels generally well informed by political advertising and who expresses approval of it? What does it say about how effective the press isn't at informing the electorate when reporters are reduced to using the ads themselves as sources for a report? If we all cringe, even at the mere thought of political ads, why is it still the lion's share of campaign spending? With the micro-targeting of certain highly specific groups of voters it only adds to the ads' costs (both in dollars and in terms of social division). Would you celebrate with me if political ads vanished? Yes, of course it banishes political ads from social media platforms too.

When we enact something close to our proposed amendment (as we must), and after the celebrations subside, we might turn to thinking of legislation to encourage more media coverage of elections, legislation and other reporting more generally. We do have a diluted form of public broadcasting in PBS and NPR and affiliates, whose sponsorship is now mostly from private sources. It's not truly public anymore.

We would likely reap healthy returns, if we established a system for journalists to receive direct grants for reporting on public and civic issues and to the publishers of those stories. So just as the aforementioned public broadcasters have now become largely privatized, we could make civics and public issue media activity possible with public funds across the whole spectrum of publishing. There are many paths to encouraging a thriving press to inform the electorate and

the public on matters of common interest. The idea is that this would provide incentive for long-form in depth reporting concerning elections and legislation. This would be to educate not to advocate. Advocacy will have its special, free, place in the Election and Legislative Forums.

8.) *Our Congress and legislatures rely on the organization and structure that is provided by the parties. How would our legislative bodies function without parties?*

The flip answer would be, quite well, they don't really function as they should *because* of the parties. Without the parties our legislative bodies would function much better. We addressed this issue in Chapter 12: *It's Up to You*. In Example 3. of conversations with legislators, you may recall that Minnesota State Senator Wiger expressed this very concern. Since this topic has come up in numerous conversations and since this chapter is dedicated to such questions it bears further discussion here. Please go back to that Example 3. of Chapter 12 for another look. Once again, our Constitution gives us scant instruction here and only in Article I., Section 5.: "Each House may determine the Rules of its Proceedings..." That's it. All of the rules, from filibusters to determining committee rules (including Rules Committees) and their make-up have been created within each House. And the same holds true in all of our state legislatures as well. Over time, the parties have woven and insinuated themselves into the rules without Constitutional authority or even any mention in our Constitution.

If the parties slowly faded away, or even disappeared abruptly, the US Congress and every legislature would have the opportunity to clean house of problematic rules which are exacerbated by partisanship; rules like the Senate's much maligned filibuster is the prime example.

It's an insult to assert that our legislators would be unable to make new rules without party influence. The rules that determine our legislative proceedings now were made by legislators. They weren't handed down by some sort of God of rules. With our 28th Amendment we will have a clean slate on which to write new and better rules without partisan hindrance.

It bears repeating: The Bill of Rights, perhaps our greatest Congressional achievement, was created under rules determined by the members of our First Congress directly before taking up the matter of introducing our first ten amendments. Formal parties didn't even exist yet. Perhaps it is precisely *because* it preceded the existence of the parties is what made this singular act of legislation possible.

9.) *Yeah, but what about unintended consequences?*

Not possessing clairvoyant powers, I can't say what unforeseen outcomes might occur as result of our 28th Amendment. It's my guess that, if anything, the improvements and benefits will far outweigh any glitches that might appear. I think people are going to like it a lot. The death of corruption, disinformation, division, polarization and neo-feudalism will probably make things somewhat more tolerable. The economic efficiencies derived from a much fairer, dare I even say truly free market will be felt by all too. Not having powerful lobbies thwart the will of the people, while making common sense laws possible will probably win a few fans as well. Not having to pick a side (as in party) nor having to raise money to seek office will certainly give us better candidates. Being able to access unbiased, verbatim information from the Election Forum

will not probably not hurt anyone either. Then, because it is such a transformative step, it's likely it will touch off a virtuous cycle of positive consequences which we won't know until we make our 28th a reality.

If difficulties present themselves, they would most likely occur in the roll-out of the interview sessions. I can see potential problems, particularly in how people living sparsely populated areas will be well-served. We may have to include ridesharing and paying mileage. But, we are on the verge of video doctor's visits. We already have mental health services available by remote therapy sessions with the aid of video conferencing. So, it may be possible for the interview sessions could also be conducted by two-way conferencing on large screens. This won't be a problem in urban areas where face-to-face meetings can proceed unhindered by long drives. Many interviewers will be able to walk to their sessions, most often to their local public schools.

Another area of concern is having enough alternates ready in case of no-shows. I really don't have a handle on how to anticipate how big, or even if, this might constitute a potential headache for the roll-out of the peer-group interview sessions. We could always try to hedge our bets (by betting against our fellow-citizens' better sense of civic duty) by having too many alternates on the bench for the first year. We could always lower the number of alternates for the next election if it proves we had too many the first time.

CHAPTER 15

FINALLY

The problem has been defined at length. The solution has been proposed in detail. This is just the start. Our work won't be done when the proposed amendment reaches a national audience, or when polling shows it is favored by a strong majority. It will not even be done when our proposal (or a close approximation) is ratified and officially becomes our 28th Amendment. It is only then we can finally begin the rewarding work of governing ourselves responsibly in order to meet our urgent needs. This won't happen spontaneously. With your help it will happen, and much sooner than you might have thought possible. At a minimum, your petition is key. But also, as you read these final pages, please consider joining us in a greater capacity to move it forward. You can reach us at info@NoMoneyElectios.org. Let's talk!

First though, I'd like to offer two choices as to how we proceed. I'm asking you to consider both options and essentially vote via email (with any comments of course) hopefully leading to conversation.

OPTION 1

Eat crow. It's going to take Money. If you are thinking: hypocrite, sell-out (or worse) I fully understand, because I feel the same way. It required a great deal of agonizing and about 98,000 words to finally consider fighting Money with money. It was thought that our initiative would stand out by staying true to our purpose by not asking for or taking Money. The idea was that our proposal would win support and that support would grow by virtue of its many merits, alone. The sad truth is, however, in the years since the first edition of the website was published it simply hasn't reached a mass audience all by itself. Oprah's people haven't been hounding me out of the blue to do a show called: *NME – Enemy of Corruption*. We have to face the universal truth -- you can talk all you want, but it takes Money to be heard. Our message is another sad case in point. As critically important, ground breaking and necessary as it may be, ours is just another example. What sets our initiative apart is that we aren't going to pay just to play, but to fundamentally change the game so nobody will ever pay to play again.

We don't have the luxury of waiting for the stars to align. Our many urgent and existential needs won't wait, so neither can we. It really is do or die. We have to adopt the mindset that our effort will be successful. We have no choice. Let's pick up where we left off with the *organize this* plan we floated in the last chapter but now with more muscle.

To start with, it is going to take more people *on* the ground in order to get this proposal *off* the ground. We will need to hire one paid District Coordinator per congressional district, not one organizer for every four congressional districts that we estimated would have sufficed. It will cost an average \$80,000 per district to cover the Coordinator's salary and benefits package, travel and office expenses. Travel expenses will be directly proportional to the geographic size of the district. Because of increased travel expenses, rural districts will cost more than urban

ones, unless we find work-arounds (or rather, find a way to make virtual rounds). In order to fund this effort, first we must establish a nonprofit corporation and file with the IRS for what will most likely be a 501(c) 4 designation. Then we can begin to raise Money. Every effort will be made to solicit the funds in the congressional district where they will be used. We'll get into fund-raising particulars a bit later, which will reveal why the next step we need to discuss is recruiting our all-important District Coordinators, who will be sought with a job posting along these lines:

Play a crucial role in making one of the most important advances in history. Join us to amend our Constitution to get money out of our elections and to undo the undue influence of the Too Big Parties.

No Money Elections District Coordinator:

Full time position available for a motivated, energetic individual who can communicate effectively with any one. Your job is to coordinate a petition drive in each state legislative district that lies within the US Congressional District in which you reside. You will recruit and train volunteers. You will knock on doors in your neighborhoods and in your State Capitol Building. A sustaining salary and benefits package will be offered with travel allowances and reimbursements for mileage and office expenses. This is a 12 to 36-month position. Send your resume' and a 1000-word essay stating your reasons for seeking this position to: NoMoneyElections.org, a nonprofit public benefit corporation.

As mentioned above our District Coordinators will initiate the petitioning of every state legislator serving in both the State Senate and State House of Representatives within their US Congressional District. For example, in Minnesota there are 25 state legislators (an average of 17 House Members and 8 Senators) in each of the 8 US Congressional Districts in the state. Of course, the number of state legislators and that number per congressional district varies from state to state, as we showed last chapter comparing California and Florida. The District Coordinator will recruit and assist volunteers from within each legislative district to: 1.) Collect signed petitions from the volunteers' neighbors. 2.) Arrange meetings between the volunteers and their state legislators to discuss the petition and amendment while presenting the signed petitions from the legislators' voting constituents.

Our coordinators will have to register as lobbyists with their state. That does not mean we will be in the business of doling out Money for the legislators' elections. Using Money to hire a person to help coordinate a grassroots petition drive is one thing. Buying votes for legislators is quite another. We can do what we must to get the ball rolling, but we can't afford to sell our souls in the process. By making campaign contributions we would torpedo our own effort. We can show our intent by publicly disclosing how and from whom our revenues are derived and by itemizing our expenses, the lion's share of which will go to coordinating the grassroots ground-game. The petition drive has two important purposes. The first is to give every citizen an opportunity to make a personal appeal to their legislator to act very specifically as called for by their petition. The other purpose is to encourage neighbors to get involved with each other to discuss this proposal. It gets the word out in the most fundamentally democratic way possible; face-to-face conversations between neighbors.

This does not imply that every single state legislator must receive petitions from a convincing majority of their constituents. Many legislators would need no convincing because they are already aware of the great value of getting money out of our elections. They are politicians. They study the polls. They know that the polls have consistently shown that an overwhelming majority of voters go so far as to favor a constitutional amendment. Those majorities haven't declined one bit since *Citizens*. Conducting an extensive petition drive would be redundant in a district where the legislator is already onboard.

Although the petition drive is the backbone of the implementation strategy, it is not to say we shouldn't pursue other ways to raise public awareness. To this point no work has been done to use social media. This is not because we don't believe in its potential in getting the message out. It is simply a matter of inability. So far, participation in this initiative has been limited, almost exclusively, to a small number of chronologically advantaged individuals. Typical of our cohort, we vary from disinterest to suffering from a Tourette syndrome-like response to social media (as in my case). We will have to get over that over the top aversion to recruit and hire individuals capable of planning and carrying out a social media campaign to raise public awareness and involvement.

Another realm for publicly sharing the proposal is with the mainstream media. We'd be seriously remiss not to contact editors and reporters to share the universally appealing story of a grass roots movement gaining momentum. Legislators who enthusiastically back our proposal would never pass up a photo-op or news article showing them in support of this very popular movement and would happily help arrange media events. Video footage, photos and stories of constituents delivering their petitions to their legislators, for example, would be indispensable in spreading the word and have multiplying benefits.

Reaching out to the educational community, from middle-school civics through scholarly publications and everything in between, is perhaps the most fertile grounds for spreading this idea. That could happen in many different ways. There should not be a single Political Science Department at any college or university anywhere in the nation that is not contacted. Our proposal could be offered as a topic for study in courses, seminars and lectures. For instance, I've thought of suggesting that classes could hold a mock Presidential Selection Convention and/or a series of mock peer-group interview sessions, with students playing the various roles. Filming those sessions could have great educational value. One university professor with whom I discussed the elements of our proposed 28th amendment, liked the idea so much he asked for permission to use our initiative as an example in his class on grass-roots movements. You may recall the interactions I had with professors from the same university who also took a keen interest in our plan. So, it isn't a huge stretch to imagine this interest being replicated all across the educational world. Now I realize, that you may be seeing this as requiring a veritable army to get the message out. True enough, and these are just a few of many ways not only to get the word out, but to induce person to person involvement at the same time. If our proposal gains traction, those individuals who become interested could themselves become agents of its dissemination. We'll never know if we don't try.

The No Money Elections Board of Directors

The board doesn't exist yet at this writing, just in case you were wondering. In fact, please feel free to throw your hat in the ring, if this proposal appeals to you and you'd seriously want to be a part of its implementation.

This would be no mere lending of your name as a titular placeholder to fulfil legal corporate requirements. Nor would it be because your eye-brow-raising notoriety might lend credibility to help persuade certain donors. Nor is it that having your name attached to this effort would lend to your cachet. It would be rather, that you see the transformative, trajectory changing, quantum leaping positive possibility in this proposed amendment. You would have to go into this with every intention that its success is obtainable within a few years at most. It will be your full-time job while it lasts. And, you'd be doing your level best to work your way out your job as soon as you can.

The board and its members (we) will be responsible for: **1.)** strategic planning; **2.)** recruiting and hiring District Coordinators and other paid staff; **3.)** managing and overseeing the effort; **4.)** fund raising. It is important to remember, as with every part of this amendment proposal, everything is merely being proposed; these are all suggestions as to how we might proceed. Everything in this book is open for change. I would fully expect changes once the board is formed. We will then work together combining all of our insight and input to decide together on our way forward.

1.) Strategic planning

How and where to begin? According to recent polling 75% of all respondents continue to favor a constitutional amendment to overturn the *Citizens United* decision (66% of the Republicans and 85% of the Democrats).¹⁴³ So, one might think we could throw a dart at the map of the US and begin working where it sticks. But, it might make sense to pick a state (or states) where there is a precedent by the legislature(s) having passed a resolution calling for constitutional amendment to build on.

There are 18 state legislatures that have already passed resolutions in various forms which essentially support amending the Constitution to overturn *Citizens*, return authority to Congress to regulate campaign spending and call on Congress to propose such an amendment and send it to state legislatures for ratification. Another eighteen state legislatures have introduced similar resolutions that are pending. Examples include, resolutions which may have passed in the Senate, but have not been voted on in the House or vice versa; resolutions which were introduced, referred to a committee and have not as yet been taken up again; or passed in one house, but not in the other. That makes 36 states, which is two *more* than the magic number required to force the Congress into action (had all the state legislatures passed resolutions similar to what we call for in our petition by playing the convention card).

¹⁴³ Ashley Balcerzak, *Study: Most Americans want to kill "Citizens United" with a constitutional amendment*, Center for Public Integrity, May 10, 2018, Washington D.C.

Other possibilities might include focusing all attention on just one of the 14 states that is a clean slate with no amendment resolutions at all. If we got one of those states onboard with our proposal it might have more impact. The hope being, it would have a better chance of sparking interest in other states and starting the domino effect. Michigan, Maryland and Ohio are on that list of 14. Again, these are just my suggestions. Other and better ideas may be occurring to you as you read this. If so, you should be part of this effort, or at least share your ideas – please.

2.) Recruiting and hiring our District Coordinators and other paid staff

The decisions about how to recruit the District Coordinators and deciding which applicants should be hired will be one of the most important duties of the board of directors. I have suggested above what we might expect of our coordinators. Writing a formal job description is a more considered exercise. Should that description include fund raising or do we want that to be taken up by a separate group of people? I have noticed that some advocacy groups appear to have outsourced raising Money to professional fundraisers. All of these considerations are interdependent, require close attention, thorough discussions and are and best handled by the Board.

3.) Managing and overseeing the effort

As appealing the notion of a leaderless revolution might be, there really is no evidence of any social or political movement having successfully carried out such. Though this proposal has largely been my brainchild to this point, I'd like to think there is someone who would be better suited to lead this effort going forward. Ideation ability and management skills rarely reside within one brain. I haven't gone to this length just to share what I think is a good idea. I think our very survival depends on our being able to implement this proposal (or something fundamentally similar). I will continue to beat the drum, but I don't need to, nor do I want to be the drum major.

The oversight of this operation, and how that oversight should be carried out is another of the Board's chief responsibilities. One thought is that we would be best served by establishing oversight panels comprising district coordinators to oversee and manage themselves. They could organize in panels of 6 to 10, let's say, within a particular geographical area. It would be ideal if these panels could be organized on a state-by-state basis. In less populous parts of the country, states could combine to make a panel. On the other hand, states with large populations could have several oversight panels each.

4.) Fund raising

Small personal donors with a personal donation limit of \$50 could be considered fairly democratic. Of course, no corporate or large personal Money, thank you very much. Remember, it will cost just \$80,000 per district (745,000 people) for 2 or 3 years at the most (on average – less in urban areas) to fund. That means if just 1,600 folks contributed \$50 or, 3,200 gave \$25; 8,000 folks chipped in \$10 etc, there would be enough to hire our coordinators. To reach those donors in the first place is the catch, of course. Social media magic, maybe? Start on the streets? Get others involved to do the same as you: to collect signed petitions to present to

your legislators. Film the process and sling it on you-tube and make podcasts etc. Free T-shirts? Nobody has to pay for them because they're free, right? That's the answer!

OPTION 2

Here comes the O'Henry. Even if you were ready to agree with the need to raise Money (from small donors, *of course*) the Money still has to come from somewhere initially. This means one of two things have to happen. Either large donors will have to prime the pump or, there has to be a group willing to take the first step without any thought of being paid (to do the right thing). In other words, if *you* don't do it, nobody else will. Without *your* spark there is no fire.

Yes, Money could, as described above, be used to create an organization that could propel the proposal all the way to ratification. But without this initial, intentionally *unfunded* spark of common effort, Money wouldn't likely follow anyhow. So, why not forget Money and go straight to the organization and effort outlined above? Wouldn't we, volunteers and neighbors, motivated by our need to fix our broken government, be more viable, more believable, than paid coordinators?

The need to fight fire with fire metaphor to justify using Money to get Money out of politics implies giving up the moral high ground – unfortunately, then strategic advantages accrue to Money. If this comes to a Money fight; guess who wins? Can you imagine trying to outspend all of the Money from all sources who think they can get ahead by using their Money? They *will* be spending like never before. But, we are 99%. This is *our* government. Why get beaten up by Money when we have the numbers? Furthermore, the Money chase is a nasty distraction from what can't be bought, that we can do and Money can't: time talking to neighbors and signing petitions..

Ultimately, we can't afford to give up our strategic/ethical/numerical advantage to get money out and bring democracy in. Keeping Money out of No Money Elections must be. Again, using the organization outlined above efficiently on an all-volunteer basis instead of paid district coordinators relies on you, me, and our neighbors, all freely giving time, to get it going. That means you, as you read this, ask yourself the question of whether you would now bring your signed petition to your representatives and give them the petition. If you say, "Sure, I can do that." Then, please document, film, record or comment on your experience and send it along to all in your circle and cc us too, if you'd be so kind. Your effort will inspire others.

And, please, don't be shy! This has to be a collaboration, and collective effort, in communal spirit, to be successful. If upon reading this strikes you as something you would like to be a part of, then please, by all means contact me. info@nomoneyelections.org

It can't happen without you.

